Closed '88

LOS ANGELES COUNTY SHERIFF'S DEPARTMENT

DISPOSITION WORKSHEETS & MISCELLANEOUS DOCUMENTS

FILE

INTERNAL AFFAIRS BUREAU

INVESTIGATIVE REPORT

I.A.B. 008383
(Book 1 of 8)

CONFIDENTIAL

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

UNIT COMMANDER RESPONSE

Date of incident: October 27, 1994	Unit: Men Central Jail	File # 008383

Incident: Use Of Force, Hospitalization.

Recommendation:

I concur.

I do not concur. (Detailed justification required)

Action (Document specifically):

14 March 97

Unit Commander: **Date:** 11/26/96

Area Commander: **Date:** 3/10/97

Division Chief: **Date:** 3/10/97

IN'. ESTIGATOR'S LOG
DO NOT COPY

FILE NUMBER:	**I.A.B. 008383**
INVESTIGATOR:	**Nemeth/Gjendem**

CASE SUMMARY: Use of Force Roll-out involving Inmate [redacted] who sustained a fractured left testicle during a fight with deputies. Force reported by four reporting deputies does not match testicle injury. Four additional deputies found to have been present during incident aud did not report their involvement to a supervisor. Floor sergeant and acting watch commander did not conduct a complete and thorough force review.

DATE	ACTIVITY	NAME
10-27-94	Force roll-out notification. 4 MCJ em shift deps. subdued an inmate that fought with a deputy. Inmate sustained minor head wound.	Nemeth/Cornell/ Burnett
10-27-94 to 10-28-94	Discovered that Inmate sustained a severely fractured left testicle, which required surgical removal. Reports written by four involved deps. are severely lacking in detail of force used. Interviewed 4 inmate witnesses to incident. All state that 10 or more deputies were involved in force and several kicked inmate in groin.	Nemeth/Cornell
10-29-94 to 11-17-94	Interviewed Inmates [redacted], [redacted], [redacted], and [redacted], civilians [redacted] and [redacted] and Docotr Dunn.	Nemeth/Cornell
10-29-94	Briefed Captain Scaduto with Lt. Burns and Lt. Dickenson. ICIB investigation ordered re: Assault under Color of Authority.	Nemeth/Cornell
10-29-94 to 07-18-95	Monitored case during ICIB investigation and District Attorney review. Ultimately, D.A. rejects criminal case.	Nemeth
07-19-95 to 10-16-95	Completed priority cases (008445 - Rewald & Soto R.O.D. & 008893 - Little R.O.D.)	Nemeth/Gjendem
10-16-95	Reviewed case and prepared for interviews of Sgt. Mosley & Deputy Romero.	Nemeth/Gjendem
10-31-95	Interviewed Witness Mosley.	Nemeth/Gjendem
11-01-95	Interviewed Subject Romero.	Nemeth/Gjendem

IAD 5 2

INVESTIGATOR'S LOG
DO NOT COPY

FILE NUMBER:	**I.A.B. 008383**
INVESTIGATOR:	**Nemeth/Gjendem**

CASE SUMMARY: Use of Force Roll-out involving Inmate [redacted] who sustained a fractured left testicle during a fight with deputies. Force reported by four reporting deputies does not match testicle injury. Four additional deputies found to have been present during incident and did not report their involvement to a supervisor. Floor sergeant and acting watch commander did not conduct a complete and thorough force review.

DATE	ACTIVITY	NAME
11-02-95 to 11-07-95	Transcribed interviews and prepared for next interview series.	Nemeth/Gjendem
11-08-95	Interviewed Witness Deputy [redacted].	Nemeth/Gjendem
11-09-95	Interviewed Witness Deputy Christolon.	Nemeth/Gjendem
11-13-95	Interviewed Witness Deputy Howard.	Nemeth/Gjendem
11-14-95	Interviewed Subject Deputy Barrett and Witness Deputy Romash.	Nemeth/Gjendem
11-15-95	Interviewed Subject Deputy Kammer.	Nemeth/Gjendem
11-16-95	Interviewed Witness Deputies Jackson and Icamen.	Nemeth/Gjendem
11-20-95	Interviewed Subject Deputy Broad.	Nemeth/Gjendem
11-21-95 to 12-07-95	Review and correct verbatim transcriptions of all witness and subject interviews. Prepare for next series of interviews.	Nemeth/Gjendem
12-08-95	Interviewed Subject Deputy Sloan.	Nemeth/Gjendem
12-13-95	Interviewed Subject Deputies [redacted] and [redacted]	Nemeth/Gjendem
12-14-95	Interviewed Subject Deputy Kluth.	Nemeth/Gjendem
12-18-95	Interviewed Witness Sergeant Duncan.	Nemeth/Gjendem
12-19-95 to 01-03-96	Review and correct verbatim transcriptions of all witness and subject interviews. Prepare for next series of interviews.	Nemeth /Gjendem
01-03-96	Interviewed Subject Sergeant Mosley.	Nemeth/Gjendem
01-08-96	Interviewed Subject Sergeant Duncan	Nemeth/Gjendem

INVESTIGATOR'S LOG
DO NOT COPY

FILE NUMBER:	**I.A.B. 008383**
INVESTIGATOR:	**Nemeth/Gjendem**

CASE SUMMARY: Use of Force Roll-out involving Inmate [redacted] who sustained a fractured left testicle during a fight with deputies. Force reported by four reporting deputies does not match testicle injury. Four additional deputies found to have been present during incident and did not report their involvement to a supervisor. Floor sergeant and acting watch commander did not conduct a complete and thorough force review.

DATE	ACTIVITY	NAME
01-09-96 to 01-31-96	Review and correct verbatim transcriptions of all witness and subject interviews	Nemeth/Gjendem
01-31-96 to 02-12-96	Prepare Case Disposition Worksheets.	Nemeth
02-13-96 to 02-15-96	Prepared case forms and documents. Reviewed and corrected case disposition worksheet.	Nemeth
02-15-96	Completed case forms and compiled case documents into final form.	Nemeth
02-15-96	Submitted case to Lieutenant Burns for approval.	Nemeth
3-18-96	APPROVED	D. Burns
4-10-96	ADVOCACY UNIT REVIEWED + RETURNED FOR RE-INTER-	D. TARDIFF
	VIEW OF SUBJECT ROMERO.	
4-10-96 TO	IAB INVESTIGATOR LOANED TO ICIB	
4-29-96	FOR PRIORITY INVESTIGATION (RIVERSIDE)	NEMETH
5-9-96	RE-INTERVIEWED ROMERO	NEMETH
5-9-96 5-24-96	REWROTE DISPO WORKSHEETS & INCORPORATED ROMERO'S STATEMENTS	NEMETH
5-30-96	SUBMITTED TO IAB CAPT. SMITH	NEMETH
6-3-96	APPROVED	[signature]

COUNTY OF LOS ANGELES - SHERIFF'S DEPARTMENT
INTERNAL AFFAIRS BUREAU INVESTIGATIVE REPORT

DATE OF INCIDENT	FILE NO.
October 27, 1994	I.A.B. 008383

PERSONNEL INVOLVED

KLUTH, David #[redacted]	KAMMER, Todd #[redacted]
SLOAN, Gary #[redacted]	ROMERO, Cesar #[redacted]
[redacted] #[redacted]	MOSLEY, Van, Sgt. #[redacted]
[redacted] #[redacted]	DUNCAN, Charles, Sgt. #[redacted]
BARRETT, Richard #[redacted]	
BROAD, John #[redacted]	

REQUESTOR

Mark M. Squiers, Chief
Custody Division South

CHARACTER OF CASE

Excessive Use of Force; Assault Under Color of Authority; Reporting Use of Force; Responsibility for Completion of Duties; Responsibility for Conduct of Subordinates

LOCATION

441 Bauchet Street, Los Angeles, 90012 (Men's Central Jail Module 4400)

REFERENCE	INVESTIGATOR
Herbert Pettus, Captain Central Jail	John A. Nemeth, Sergeant Ernie Gjendem, Sergeant Internal Affairs Bureau

SYNOPSIS

Deputy Kluth (4400 Module Officer) left the module security booth after being relieved by Deputy Sloan. Kluth left the security booth to confront an inmate (later identified as Complainant [redacted] who had left his cell without authorization. Kluth had previously locked [redacted] on "B" row because [redacted] refused to return to his cell. Kluth confronted [redacted] alone and removed [redacted] from "B" row, directing [redacted] to assume a searching position on a wall in the sally port area of the module. When Kluth attempted to handcuff [redacted] he resisted and began wrestling with Kluth. Kluth and [redacted] fell to the floor as [redacted] nd [redacted] rrived. (Sloan said that he had been talking to [redacted] a 5000 floor prowler, on the phone when he noticed the altercation between Kluth and [redacted] and told [redacted] he needed help in module 4400.)

9000 floor Deputies Romero, Broad, Kammer, and Barrett heard a P.A. announcement and also responded to module 4400. Deputy Barrett held the module door for the group and as Romero entered the module, Sloan told Romero to relieve him in the 4400 security booth, which he did. Sloan exited the booth and joined the other deputies in using force on [redacted] Kluth was on [redacted]

SUBMITTED BY	REFERRED FOR RECOMMENDATION TO
Norman L. Smith, Captain Internal Affairs Bureau	William T. Stonich, Commander Force Review Committee

STATUS OF PERSONNEL INVOLVED

Sloan, Kluth, [redacted] and [redacted] - Relieved of Regular Duty.
Duncan, Mosley, Barrett, Broad, Kammer, and Romero - Continuing on Regular Duty.

INTERNAL AFFAIRS BUREAU INVESTIGATIVE REPORT

upper left torso area, Sloan on his left buttock area, [redacted] on his upper left torso area, and [redacted] on [redacted] lower right torso/upper right leg area. Deputies Broad and Kammer each held down one of [redacted] legs. Deputy Romero remained in the security booth throughout the incident and he and Barrett reportedly never touched [redacted]

After the altercation, Deputies Romero, Barrett, Kammer, and Broad all left module 4400 before a supervisor arrived and they never reported their presence there to anyone. Sloan, [redacted] and Kluth all reported punching and applying control holds on [redacted] but they all denied ever kicking or touching his testicles or groin area. The reports submitted by Sloan, Kluth, [redacted] and [redacted] are vague and, according to the interview statements, the reports do not list all of the force they used on [redacted] The reports also do not mention that Barrett, Broad, Kammer, and Romero were present during the use of force.

At the conclusion of the incident, [redacted] was taken to the MCJ clinic for medical treatment. [redacted] had received a cut over his left eyebrow, but did not complain of any other injuries while at MCJ. Sgt. Duncan, the acting watch commander, interviewed [redacted] on video tape and [redacted] said that he suffered his injuries from a fight with gang members in his cell. [redacted] was sent to LCMC for head X-rays and once there, [redacted] complained of testicle pain and told doctors that deputies had kicked him in the groin during the incident. LCMC doctors found that [redacted] had sustained a severely fractured left testicle, which required surgical removal.

Four inmate witnesses were located who had observed and/or heard some or all of the altercation. One inmate ([redacted] had been locked in the "B" row shower directly in front of where the incident occurred. He identifies Deputy [redacted] from a photo line up and described a deputy with an orange flat top haircut (Sloan) as being two of the deputies he saw kick [redacted] during the incident. He said that Sloan held one of [redacted] legs and kicked [redacted] in the groin while another unknown deputy held [redacted] other leg on the floor. Another inmate ([redacted] heard the deputy who had relieved Kluth in the booth (Sloan) say to a responding deputy (possibly Romero), "Go ahead and get you some!" to which the deputy replied, "Naw, its already under control." [redacted] then heard the booth deputy (Sloan) say, "Well, come in and cover the booth while I get mine." Two other inmate witnesses ([redacted] and [redacted] also described similar observations.

It was not known that Broad, Barrett, Kammer, and Romero were present and/or involved in the use of force incident until the 4000 control booth deputy (Howard) said that she saw them run into module 4400 during the incident. Kammer and Broad stated the reason they did not report that they used force on [redacted] was because they felt that their action of restraining [redacted] legs by holding them to the floor did not require reporting under the Department's force policy. Barrett denied seeing any force used or using any force himself and said that he arrived in the module after the incident was over. Romero said that he never touched [redacted] but admitted witnessing force and said that he did not personally report it to a sergeant, but instead, told [redacted] to tell the sergeant for him. Romero stated that [redacted] told him that Sergeant Duncan said that he (Romero) did not have to write a report about what he saw. Romero said that he saw Kluth, Sloan, [redacted] and [redacted] each punch [redacted] 10 to 15 times. Although Romero denied seeing any deputy kick [redacted] he said he saw Sloan "throw" his knee into [redacted] left buttock area.

Sergeant Mosley (the 4000 floor sergeant) approved Kluth's SHAD 49 report which lacked detail regarding the exact force Kluth used. The supplemental reports submitted by Sloan, [redacted] and [redacted] were not signed as approved by a sergeant and also lacked detail. Sergeant Mosley did not attempt or instruct anyone to locate any witnesses to the force incident. Sergeant Mosley wrote a supervisor's use of force memorandum that was extremely lacking in detail and did not address several pertinent issues.

Sergeant Duncan (the acting watch commander) did not challenge [redacted] inaccurate account of

the force incident. Sergeant Duncan also completed the watch commander's use of force package without reading the reports submitted by the involved deputies. Sergeant Duncan accepted Sergeant Mosley's use of force package without requesting corrections or additions. Sergeant Duncan wrote a watch commander's use of force memorandum and submitted a use of force package that were both lacking in detail and did not address several pertinent issues.

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

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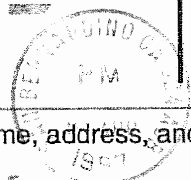
SLOAN DISPOSITION

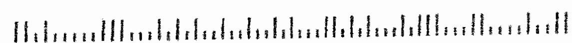
UNITED STATES POSTAL SERVICE



First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

• Print your name, address, and ZIP Code in this box •

LOS ANGELES COUNTY SHERIFF'S DEPARTMENT
INTERNAL AFFAIRS BUREAU
4700 RAMONS BOULEVARD
MONTEREY PARK, CA. 91754-2169



4-16-97

Is your RETURN ADDRESS completed on the reverse side?

SENDER:
- Complete items 1 and/or 2 for additional services.
- Complete items 3, 4a, and 4b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write *"Return Receipt Requested"* on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

MR. GARY SLOAN

[redacted]

4a. Article Number

P 392 391 453

4b. Service Type

☐ Registered ☒ Certified
☐ Express Mail ☐ Insured
☒ Return Receipt for Merchandise ☐ COD

7. Date of Delivery

5. Received By: *(Print Name)*

6. Signature: *(Addressee or Agent)*

X

8. Addressee's Address *(Only if requested and fee is paid)*

A.D.

PS Form **3811**, December 1994

Domestic Return Receipt

Thank you for using Return Receipt Service.

761551N25A - SH-AD-32A (2/72) -

COUNTY OF LOS ANGELES

SHERIFF'S DEPARTMENT

DATE September 17, 1996

OFFICE CORRESPONDENCE

FILE NO.

FROM: WILLIAM T. STONICH, COMMANDER
PROFESSIONAL STANDARDS
AND TRAINING DIVISION

TO: WILLIAM G. CHRISTIANSEN, CAPTAIN
MEN'S CENTRAL JAIL

SUBJECT: **EXECUTIVE FORCE REVIEW COMMITTEE FINDINGS AND RECOMMENDATIONS - DEPUTY GARY SLOAN, #[redacted] USE OF FORCE, OCTOBER 27, 1994, IAB INVESTIGATION #008383**

The purpose of this memo is to notify you of the review committee's findings and recommendations concerning the use of force which occurred on October 27, 1994.

The committee met on September 16, 1996 and consisted of myself and Commanders Daniel Burt and Luis Najera (Custody Division South). The committee deemed as founded the allegation that Deputy Sloan violated the following sections of the Manual of Policy and Procedures:

3-01/030.10(e) -Obedience to Laws, Regulations, and Orders
3-01/030.23 - Unreasonable Force
3-01/040.70 -False Statements
3-01/040.75 - Failure to Make, and/or Making False Statements During Departmental Internal Investigations
3-01/040.90 - Reporting Information
5-09/430.00 - Use of Force Reporting and Review Procedures

Accompanying this memo is the original PSTD Response Team package which contains the IAB investigation and Training Bureau reports. Please evaluate the included material and complete and sign the enclosed "Unit Commander's Response" form documenting your recommendations and actions. Additionally, please complete a Disposition Sheet and the accompanying Disposition Worksheet. Attach to the Disposition Worksheet your "Assessment of Mitigating and Aggravating Factors," documenting the justification for the discipline you intend to impose. Please return all of these documents, along with the PSTD Response Team package, to me through your division chief within 30 days.

WTS:JPH:jph

761551N25A - SH-AD-32A (2/72) -

COUNTY OF LOS ANGELES

SHERIFF'S DEPARTMENT

DATE June 6, 1997

OFFICE CORRESPONDENCE

FILE NO. IAB 008383

FROM: ANDREA DAVIS, A/STAFF I
INTERNAL AFFAIRS BUREAU

TO: JEFFREY E. HAUPTMAN, DIRECTOR
PERSONNEL SERVICES

CITY OF COMMERCE

SUBJECT: **SUSPENSION LETTER**

ATTACHED IS THE SUSPENISON/DISCIPLINE LETTER FOR:

SUBJECT: **DEPUTY GARY SLOAN** EMPLOYEE NO. [redacted]

SUSPENSION LETTER DATED: **JUNE 2, 1997**

NUMBER OF DAYS SUSPENDED **WITHOUT PAY** PAYROLL WILL

POST:

1	2	3	4	**X**	6	7	8	9	10	12	15	20	25	30

RECEIVED BY:

MARY WOODS 6-9-97
PERSONNEL (PRINT NAME) **DATE**

Mary Woods 6-9-97
PERSONNEL (SIGNATURE NAME) **DATE**

*** PLEASE RETURN ALL SIGNED RECEIPTS TO ANDREA DAVIS OF INTERNAL AFFAIRS BUREAU **AS SOON AS POSSIBLE**.

AFTER SERVICE AND SIGNATURE:

PLEASE COMPLETE THIS ATTACHED FORM AND FORWARD TO THE UNIT TIMEKEEPER

*PLEASE RETURN THIS FORM WITH ONE (1) ORIGINAL SIGNED SIGNATURE PAGE AND THE ADMONITION AND RECEIPT (WHEN APPLICABLE) *** AS SOON AS POSSIBLE *** TO:*

ANDREA DAVIS
INTERNAL AFFAIRS BUREAU
4900 SOUTH EASTERN AVENUE
COMMERCE, CALIFORNIA 90040
[redacted] *OR* [redacted]

THANK YOU

CASE NO. IAB 008383

SUBJECT NAME: Deputy Gary Sloan

NUMBER OF DAY(S) SUSPENSION: 5

DATE(S) OF SUSPENSION: June 3, 1997 through June 7, 1997

UNIT OF ASSIGNMENT: Central Jail

DATE TIMEKEEKPER NOTIFIED: 06-09-97 / 1153

OPERATIONS LIEUTENANT/SERGEANT/SUPERVISOR SIGNATURE:

CA 58

TIMEKEEPER SIGNATURE:

Marlene [signature]

TIMEKEEPER NOTIFICATION SHEET

COUNTY OF LOS ANGELES

SHERIFF'S DEPARTMENT

DATE June 2, 1997

OFFICE CORRESPONDENCE

FILE NO. IAB 008383

FROM: LINDA HEMINGWAY, SUP. OPS. ASST. I
INTERNAL AFFAIRS BUREAU

TO: JEFFREY E. HAUPTMAN, DIRECTOR
PERSONNEL ADMINISTRATION

ATTN: ED FEHRENBACHER
PAYROLL MANAGER
WAGES & BENEFITS

SUBJECT: **DEPUTY GARY SLOAN, #[redacted]**
CENTRAL JAIL
CUSTODY DIVISION

Please adjust your payroll records to reflect a suspension without pay for Gary Sloan from his position of Deputy Sheriff, Item No. 2708A, with this Department, for a period of five (5) days, effective June 3, 1997, through June 7, 1997.

LMH:ad

SHERMAN BLOCK, SHERIFF

County of Los Angeles

Sheriff's Department Headquarters
4700 Ramona Boulevard
Monterey Park, California 91754-2169

June 2, 1997

Deputy Gary Sloan, #[redacted]

Dear Deputy Sloan:

On April 15, 1997, you were served with a Letter of Intention, indicating your right to respond to the Sheriff's Department's pending disciplinary action against you, as reported under File Number IAB 008383. You were also advised of your right to review the material on which the discipline was based.

You did exercise your right to respond, and did review the material on April 24, 1997. However, pursuant to a Settlement Agreement between you and the Department, your Division Chief has determined that the following discipline is appropriate.

You are hereby notified that you have suspended without pay from your position of Deputy Sheriff, Item No. 2708A, with this Department, for a period of five (5) days, effective June 3, 1997, through June 7, 1997.

An investigation under File Number IAB 008383, conducted by Internal Affairs Bureau, coupled with your own statements, has established the following:

1. That in violation of Manual Section 5-09/430.00, Use of Force Reporting and Review Procedure; and/or 3-01/030.10(e), Obedience to Laws, Regulations, and Orders; and/or 3-01/040.90, Reporting Information; on or about October 27, 1994, you were on duty at Central Jail, when, you relieved Deputy Kluth in module 4400 so he could remove Inmate [redacted] from a secured area and confront [redacted] alone. Deputy Kluth subsequently became involved in an altercation with [redacted] You told a deputy who came to the module to assist in subduing the inmate to relieve you in the booth and you then participated in the use of force on Inmate [redacted] Mr. [redacted] sustained a fractured left testicle as a result of the force used. The force you and the other involved deputies reported is not consistent with the injury sustained by Mr. [redacted]

Your written report of the incident did not fully detail the force you used on Mr. [redacted] and it did not include the fact that other deputies were present in the module, two of whom assisted in subduing the inmate. There were several inmate witnesses to the incident, but you did not include the witnesses' names in your report.

2. That in violation of Manual Section 3-01/030.23, Unreasonable Force, on or about October 27, 1994, you were on duty at Central Jail, when, you relieved Deputy Kluth in module 4400 so he could remove Inmate [redacted] from a secured area and confront [redacted] alone. Deputy Kluth subsequently became involved in an altercation with [redacted] You told a deputy who came to the module to assist in subduing the inmate, to relieve you in the booth and you then participated in the use of force on Inmate [redacted] Mr. [redacted] sustained a fractured left testicle as a result of the force used. The force you and the other involved deputies reported is not consistent with the injury sustained by Mr. [redacted] Your report of the incident did not fully detail the force you used on Mr. [redacted] and it did not include the fact that other deputies were present in the module, two of whom assisted in subduing the inmate. There were several inmate witnesses to the incident, but you did not include the witnesses' names in your report.

You will hereby take notice that any future acts of misconduct may result in more severe disciplinary action.

The Sheriff's Department reserves the right to amend and/or add to this letter.

Sincerely,

SHERMAN BLOCK, SHERIFF

ORIGINAL SIGNED

Norman L. Smith, Captain
Internal Affairs Bureau

Note: Attached for your convenience are excerpts of the applicable areas of the Manual of Policy and Procedures.

NLS:NJ:ad

cc: Civil Service Advocacy
Barry S. King, Chief, Custody Division
Internal Affairs Bureau
Personnel Services
Payroll Unit
Men's Central Jail/Unit Personnel File

Deputy Gary Sloan, #[redacted]
(Attachment)

5-09/430.00 Use Of Force Reporting And Review Procedures

Any use of force which is greater than that required for unresisted Department-approved searching or handcuffing must be reported. Additionally, any use of force which results in an injury or complaint of pain must be reported.

Responsibilities for Reporting the Use of Force

Members shall immediately make a verbal notification to their immediate supervisor (in this section, "supervisor" refers to a minimum rank of sergeant) in all cases in which they use reportable force. Members witnessing reportable force shall immediately advise their supervisor, who will determine whether a separate report by the witness(es) is required.

Whenever an incident involving reportable force requires a first report, all details regarding the use of force shall be included in the report. A reference to the verbal notification and the name of the supervisor to whom it was made shall be included in the first report. Each assisting member who used force, including partners, shall submit a separate supplementary report detailing his actions.

Each member reporting force or memorandum shall describe in detail the actions of the suspect necessitating the use of force and the specific force used in response to the suspect's actions. Any injuries or complaint of injuries, and any medical treatment or refusal of medical treatment, shall be documented in the first report, supplementary reports or memoranda.

Transporting Suspects

Whenever a suspect on whom force was used is transported to a medical facility for examination or treatment prior to booking or housing in a custody facility, the transportating deputy shall immediately advise the field sergeant or immediate supervisor. The sergeant shall immediately advise the watch commander or supervising lieutenant that the suspect is being treated or examined following a deputy's use of force.

When a suspect must be transported from the field directly to County-USC Medical Center, IRC or SBI for booking, the watch commander or supervising lieutenant shall arrange to conduct the prisoner interview at the booking site, according to the procedures outlined in the sub-section entitled "Watch Commander's Responsibilities."

Medical Treatment

A suspect must be transported to a medical facility for examination/treatment by qualified medical personnel whenever:

- He strikes his head on a hard object, or sustains a blow to the head/face, as a result of the application of force by a deputy, regardless of how minor any injury to the head/face may appear. The deputy transporting the suspect shall inform the doctor that the suspect was struck on the head or struck his head,
- He is restrained with a carotid restraint, or any kind of neck/throat restraint, whether or not he is rendered unconscious. The deputy transporting the suspect shall inform the medical staff of the fact that the suspect was restrained with a carotid restraint whether or not he was rendered unconscious,
- He is hit with a specialized weapon projectile (such as an Arwen round, Taser dart, Stunbag, etc.),
- He is sprayed with Oleoresin Capisicum spray (unless qualified medical clearance is obtained in the field),
- He has injuries that appear to require medical treatment,
- He alleges any injury and requests medical treatment, whether or not he has any apparent injuries,
- He alleges that substantial force was used against him, whether or not he has any apparent injuries or requests medical treatment.

Any doubt regarding the need for medical treatment shall be resolved by transporting the suspect to an appropriate medical facility.

If the suspect refuses medical treatment in any of the cases previously described, he shall be transported to a medical facility and required to personally inform the medical staff of his refusal to receive medical treatment. The deputy transporting the suspect shall include in the appropriate report or memorandum the name of the medical personnel to whom the suspect indicated his refusal and the name of the medical staff member authorizing booking at the station or regular jail housing. In addition, an effort should be made to have the medical staff complete an admission report on the suspect and to indicate the suspect's refusal of medical treatment on that report.

If the medical staff indicates that the suspect should be treated despite his refusal, the suspect shall be transported to the County-USC Medical Center Jail Ward or to the appropriate Custody Division medical facility for treatment or medical review.

Immediate Supervisor's Responsibilities

The field sergeant or immediate supervisor shall respond without unnecessary delay to any incident involving reportable force, and shall immediately advise the watch commander or supervising lieutenant of any significant force incident.

Reportable force is significant when it involves any of the following:

- Suspect injury resulting from use of force,
- Complaint of pain or injury resulting from use of force,
- Indication or allegation of misconduct in the application of force,
- Any application of force that is greater than a Department-approved control hold or come-along. This includes the use of the hobble restraint in the total appendage restraint procedure.

In instances of significant force, the field sergeant or immediate supervisor shall do the following:

- Locate and interview all potential witnesses, including Department personnel, and document their statements, including those who could have witnessed but claim not to have witnessed the incident. In situations involving very large numbers of potential witnesses, the watch commander, or in the case of a PSTD Response Team rollout, the team lieutenant, shall determine the appropriate scope of the witness canvass necessary to sufficiently document the force incident,
- Photograph the scene in conditions as near as possible to those at the time of the force incident, if appropriate,
- Complete a "Supervisor's Report, Use of Force" (SH-R-438) for each member who used force,
- Interview the attending physician or other qualified medical personnel, when the suspect is taken to a medical facility for examination, as to the extent and nature of the suspect's injuries, or lack thereof, and whether the injuries are consistent with the degree of force reported,
- Photograph the deputies' injuries, if appropriate.

If the force used falls into one of the categories requiring a Professional Standards and Training Division Response Team, the sergeant's or immediate supervisor's function shall be limited to notifying the watch commander, identifying and interviewing witnesses and preserving the scene and evidence as appropriate.

Reportable force is less significant when it is limited to any of the following and there is no injury or complaint of pain nor any indication of misconduct:

- Searching and handcuffing techniques resisted by the suspect,
- Department-approved control holds or come-alongs,

- Use of the hobble restraint,
- Use of O.C. spray,

Use of O.C. Spray is not considered significant force if it causes only discomfort and does not involve injury or lasting pain. In these cases, the field sergeant or immediate supervisor shall:

- Advise the watch commander or supervising lieutenant as soon as possible,
- Interview the person/prisoner if practical,
- Complete a "Supervisor's Report, Use of Force" (SH-R-438) for each member who used force and include a narrative briefly documenting the circumstances and synopsizing any statements acquired,
- Ensure distribution of the SH-R-438 as indicated on the form.

Watch Commander/Supervising Lieutenant's Responsibilities

The watch commander or supervising lieutenant shall, with extreme priority, personally examine any suspect/inmate on whom significant force has been used and interview him regarding the incident. When interviewing suspects/inmates regarding use of force incidents, the watch commander shall ask the person if he has any injuries, the nature of the injuries, and if he wants medical treatment. These questions must be asked whether or not the suspect/inmate has any apparent injuries. (Refer to the section entitled "Medical Treatment" for required treatment.) If the suspect is taken to a medical facility for examination or treatment, the watch commander shall ensure that a supervisor interviews the examining physician or qualified medical personnel as to the extent of the injuries, or lack thereof, and whether the injuries are consistent with the degree of force reported.

The watch commander/supervising lieutenant shall tape-record the interview of the suspect/inmate and, if appropriate, photograph him, paying particular attention to any known or alleged areas of injury. (Obtain suspect consent for photographing injuries hidden by clothing.) The watch commander/supervising lieutenant should also consider video-taping the interview when appropriate.

The watch commander/supervising lieutenant shall submit a force review package (see subsection entitled "Force Review Package") to the unit commander as soon as possible detailing the results of his review and his recommendation as to whether further action or investigation is warranted.

<u>Requesting a PSTD Response Team</u>

The watch commander/supervising lieutenant is responsible for immediately notifying the on-call Internal Affairs Bureau lieutenant in any of the following situations involving force or allegations thereof:

- Hospitalizations due to injuries caused or allegedly caused by any Department member,
- Skeletal fractures caused or allegedly caused by any Department member,
- Significant force used by any Department member during or following a vehicular or foot pursuit,
- All large party situations where force is used,
- Injury or complaint of injury to a person's head, resulting in hospital treatment, following contact with any Department member. (This does not apply to contamination due to O.C. spray.),
- All head strikes with impact weapons,
- Canine bites resulting in medical treatment,
- Any death following a contact with any Department member.

The Internal Affairs Bureau lieutenant shall determine whether the response of a Professional Standards and Training Division response team is appropriate. If a response team is to be sent, the Internal Affairs Bureau lieutenant shall direct the watch commander/supervising lieutenant as to whether to conduct a suspect/inmate interview.

The watch commander/supervising lieutenant shall immediately notify the unit commander of any incident requiring a Professional Standards and Training Division response. (See section entitled "Professional Standards and Training Response Teams.")

In any situation in which a response team responds to conduct a force review, the watch commander/supervising lieutenant shall cooperate with and assist team personnel in conducting the review. Neither the watch commander/supervising lieutenant nor the sergeant shall conduct a suspect/inmate interview unless directed to do so by the Internal Affairs Bureau lieutenant. A unit level force review package shall not be submitted on any force incident which is documented by PSTD team personnel who have responded to the scene.

<u>Watch Sergeant/Line Sergeant's Responsibilities</u>

Sergeants approving reports shall ensure that all pertinent information is contained in the crime report. Particular attention should be given to the description of the use of force and the suspect's actions compelling the use of force.

After approving reports involving the use of force, the sergeant shall ensure that a photocopy of the approved crime report is forwarded immediately to the concerned watch commander for inclusion in the force review package.

Force Review Package

The watch commander/supervising lieutenant shall prepare and submit a force review package to the unit commander for all reviews of significant force not conducted by a PSTD response team. The force review package shall include the following items:

- Watch commander's memorandum to the unit commander detailing the findings of the use of force review, including an explanation of the incident, witness/suspect statements and qualified medical personnel's statement,
- Supervisor's Reports, Use of Force,
- Copy of SH-R-49 and related supplemental reports,
- Copy of in-service rosters for the concerned shift(s),
- Copy of medical reports,
- Photographs or video-tape of suspect's injuries or areas of alleged injury (copies of booking photographs may also provide excellent documentation),
- Tape-recording or video-tape of watch commander's interview of suspect, inmate and/or witnesses,
- Tape recording of the sergeant's/supervisors' witness interviews,
- Any related material which is deemed significant or serves to further document the incident, such as dispatch or complaint telephone tapes, other photos, etc.

The force review package shall be forwarded to the unit commander for approval. Force review package material is to be retained at the unit level until further notice.

Unit Commander's Responsibilities

The unit commander shall evaluate all force review packages and the watch commander/supervising lieutenant's findings concerning the use of force. The unit commander shall determine if further action or investigation is necessary. If further investigation is warranted, he may either initiate an administrative investigation or request an investigation by the Internal Criminal Investigations Bureau. The unit commander shall ensure that the member(s) who used force are notified as soon as possible in any case requiring further investigation.

In all use of force incidents wherein the on-call IAB lieutenant is notified or when a suspect or prisoner is transported to a hospital for medical treatment, the unit commander shall forward copies of the following documents to both the division chief and the Internal Affairs Bureau within three business days:

-The watch commander/supervising lieutenant's detailed memos,
-The "Supervisor's Reports, Use of Force,"
-All related SH-R-49 reports.

The unit commander is also responsible for ensuring the additional distribution of the Supervisor's Reports, Use of Force as follows:

-Original to Professional Standards and Training Division Headquarters,
-Copy with Force Review Package,
-Copy to employee.

Division Chief's Responsibilities

The division chief shall, within three business days of receipt, review all use of force incidents in which a suspect or prisoner is transported to a medical facility for treatment. The division chief shall note his concurrence with the unit level force review on the documents and return them to the unit for retention in the unit file. In the event that the division chief does not concur, he may specify to the unit commander the additional steps necessary to satisfactorily complete the package or notify the chief of Professional Standards and Training Division and request an administrative investigation by Internal Affairs Bureau.

Internal Affairs Bureau Responsibilities

Internal Affairs Bureau personnel shall, within three business days of receipt, review all until level force review package documents forwarded by the unit commander. The purpose of the IAB review is to ensure that a disinterested, experienced investigator examines the incident in terms of policy adherence, potential liability and completeness of documentation. The reviewing IAB investigator shall notify the IAB captain of any incident in which he feels further documentation or investigation is appropriate. The IAB captain will in turn notify the chief of the Professional Standards and Training Division and the concerned unit commander. The chief of the PSTD will notify the concerned division chief of any IAB request for further documentation or investigation.

3-01/030.10 Obedience to Laws, Regulations, and Orders

e) Members who violate any rules, regulations, or policies of the Department or the County shall be subject to disciplinary action. The commission or omission of any other act contrary to good order and discipline shall also be the subject of disciplinary action.

According to the nature of the offense, and in conformance with the rules of the County Office of Human Resources, disciplinary action may include, but is not limited to, the following:

- A reprimand (written) *
- Suspension without pay
- Reduction in rank
- Dismissal from the Department

3-01/040.90 Reporting Information

A member shall promptly report to his immediate supervisor any information or incident coming to his attention that might indicate the need for Department action.

3-01/030.23 Unreasonable Force

Unreasonable force is any use of force by Department members when the necessity exists, but which exceeds the degree of force that is objectively reasonable to protect themselves or others, or to overcome resistance to their lawful authority. The use of force against a person who has been subdued, restrained, or otherwise incapacitated, and who clearly no longer represents an immediate threat to Department personnel or to others, is unreasonable force.

I certify that on the date indicated below, I received the original of the attached letter of suspension under File Number ***IAB 008383*** as set forth in Section 18.01 of the Rules of the Los Angeles County Civil Service Commission.

6-2-97
DATE

GARY SLOAN

I certify that on the date indicated below, I served the original of the attached letter of suspension on **GARY SLOAN** as set forth in Section 18.01 of the Rules of the Los Angeles County Civil Service Commission.

6/2/97
DATE

WITNESS

** PLEASE RETURN **

one (1) original signature page to:

Andrea Davis
Internal Affairs Bureau
4900 South Eastern Avenue
Commerce, California 90040
[redacted]

STIPULATED SETTLEMENT AGREEMENT

PRELIMINARY STATEMENT

This agreement is entered into between the Los Angeles County Sheriff's Department, hereinafter referred to as "Department", and Deputy Gary Sloan, Employee Number [redacted] hereinafter referred to as "Deputy Sloan"

RECITALS

The Department and Deputy Sloan are parties to this dispute and desire to settle all issues in the Letter of Intent dated April 15, 1997, (IAB#008383) upon the terms and conditions hereinafter set forth.

NOW, THEREFORE, the Department and Deputy Sloan for and in consideration of the mutual covenants contained herein, agree as follows:

1. Both parties agree that, upon execution of this agreement, the Letter of Intent dated April 15, 1997, shall be rescinded. Additionally, the Letter of Imposition shall read as shown in the attachment.

2. The Department shall impose a thirty (30) days suspension. Twenty-five (25) days of the intended thirty (30) days suspension will be held in abeyance for a period of twelve (12) months commencing upon the date of execution of this agreement.

3. Deputy Sloan understands that if he becomes the subject of a founded investigation with similar violations within the prescribed twelve (12) month period, the twenty-five (25) days held in abeyance shall be imposed, without the opportunity for administrative or judicial review.

4. Both parties agree and understand that Deputy Sloan's records will reflect that a thirty (30) day suspension was imposed.

5. The parties further agree that this settlement agreement shall not be considered, cited or used in any future dispute as establishing precedent or past employment practice.

6. Upon execution of this agreement Deputy Sloan agrees to waive any and all further administrative or judicial remedies with respect to the modified discipline, and with respect to any imposition of the portion of the suspension held in abeyance, pursuant to Paragraph 3.

7. It is understood by and between the parties that this settlement is a compromise of disputed claims and that the actions of the parties in accomplishing this settlement shall not be considered as an admission of liability or wrongdoing on the part of any party.

8. In consideration of the terms and conditions set forth herein, Deputy Sloan agrees to fully release, acquit and forever discharge the County, and all present and former officers, employees and agents of the County, and their heirs, successors, assigns and legal representatives from any and all liability whatsoever for any and all claims arising out of or connected with the employment relationship between the County and Deputy Sloan concerning the subject matter referred to herein.

9. Deputy Sloan further agrees to relinquish and expressly waives all rights conferred upon him by the provisions of California Civil Code Section 1542, which reads as follows:

> "A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor."

10. The parties agree that the foregoing compromises the entire agreement between the parties and that there have been no other promises made by any party. Any modification of this agreement must be in writing.

I have read the foregoing Settlement Agreement and I accept and agree to the provisions contained therein and hereby execute it voluntarily and with full understanding of its consequences.

Gary Sloan, Deputy — Date: 6-2-97

APPROVED AS TO FORM ONLY

Helen Schwab, Esquire
Green & Shinee
Attorney for Deputy Gary Sloan — Date: 6/2/97

FOR THE DEPARTMENT

Barry S. King, Chief — Date: 6/3/97

SHERMAN BLOCK, SHERIFF

County of Los Angeles

Sheriff's Department Headquarters
4700 Ramona Boulevard
Monterey Park, California 91754-2169

June 2, 1997

Deputy Gary Sloan, #[redacted]

Dear Deputy Sloan:

On April 15, 1997, you were served with a Letter of Intention, indicating your right to respond to the Sheriff's Department's pending disciplinary action against you, as reported under File Number IAB 008383. You were also advised of your right to review the material on which the discipline was based.

You did exercise your right to respond, and did review the material on April 24, 1997. However, pursuant to a Settlement Agreement between you and the Department, your Division Chief has determined that the following discipline is appropriate.

You are hereby notified that you have suspended without pay from your position of Deputy Sheriff, Item No. 2708A, with this Department, for a period of five (5) days, effective June 3, 1997, through June 7, 1997.

An investigation under File Number IAB 008383, conducted by Internal Affairs Bureau, coupled with your own statements, has established the following:

1. That in violation of Manual Section 5-09/430.00, Use of Force Reporting and Review Procedure; and/or 3-01/030.10(e), Obedience to Laws, Regulations, and Orders; and/or 3-01/040.90, Reporting Information; on or about October 27, 1994, you were on duty at Central Jail, when, you relieved Deputy Kluth in module 4400 so he could remove Inmate [redacted] from a secured area and confront [redacted] alone. Deputy Kluth subsequently became involved in an altercation with [redacted] You told a deputy who came to the module to assist in subduing the inmate to relieve you in the booth and you then participated in the use of force on Inmate [redacted] Mr. [redacted] sustained a fractured left testicle as a result of the force used. The force you and the other involved deputies reported is not consistent with the injury sustained by Mr. [redacted]

Your written report of the incident did not fully detail the force you used on Mr. [redacted] and it did not include the fact that other deputies were present in the module, two of whom assisted in subduing the inmate. There were several inmate witnesses to the incident, but you did not include the witnesses' names in your report.

2. That in violation of Manual Section 3-01/030.23, Unreasonable Force, on or about October 27, 1994, you were on duty at Central Jail, when, you relieved Deputy Kluth in module 4400 so he could remove Inmate [redacted] from a secured area and confront [redacted] alone. Deputy Kluth subsequently became involved in an altercation with [redacted] You told a deputy who came to the module to assist in subduing the inmate, to relieve you in the booth and you then participated in the use of force on Inmate [redacted] Mr. [redacted] sustained a fractured left testicle as a result of the force used. The force you and the other involved deputies reported is not consistent with the injury sustained by Mr. [redacted] Your report of the incident did not fully detail the force you used on Mr. [redacted] and it did not include the fact that other deputies were present in the module, two of whom assisted in subduing the inmate. There were several inmate witnesses to the incident, but you did not include the witnesses' names in your report.

You will hereby take notice that any future acts of misconduct may result in more severe disciplinary action.

The Sheriff's Department reserves the right to amend and/or add to this letter.

Sincerely,

SHERMAN BLOCK, SHERIFF

Norman L. Smith, Captain
Internal Affairs Bureau

Note: Attached for your convenience are excerpts of the applicable areas of the Manual of Policy and Procedures.

RECEIPT FOR ADMINISTRATIVE INVESTIGATION

I have received/reviewed the documents under File # 008383. I have reviewed and compared the original file copy with the copy provided to me and find them identical.

I have received the tape recorded interviews under File # 008383.

Date 4/24/97 **Time** 1050 **Signature** [signature]

Print Name Sloan, Gary

Witness [signature]

P 392 391 453

US Postal Service

Receipt for Certified Mail

No Insurance Coverage Provided.

Do not use for International Mail *(See reverse)*

Sent to MR. GARY SLOAN	
[redacted]	
Postage	$ .78
Certified Fee	1.10
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt Showing to Whom & Date Delivered	1.10
Return Receipt Showing to Whom, Date, & Addressee's Address	
TOTAL Postage & Fees	$ 2.98
Postmark or Date 4-16-97 MD	

PS Form 3800, April 1995

IAB A.D

SHERMAN BLOCK, SHERIFF

County of Los Angeles

Sheriff's Department Headquarters
4700 Ramona Boulevard
Monterey Park, California 91754-2169

April 15, 1997

Deputy Gary Sloan, [redacted]

Dear Deputy Sloan:

You are hereby notified that it is the intention of the Sheriff's Department to discharge you from your position of Deputy Sheriff, Item No. 2708A, with this Department, effective at the close of business on May 6, 1997.

An investigation under File Number IAB 008383, conducted by Internal Affairs Bureau, coupled with your own statements, has established the following:

1. That in violation of Manual Section 5-09/430.00, Use of Force Reporting and Review Procedure; and/or 3-01/030.10(e), Obedience to Laws, Regulations, and Orders; and/or 3-01/040.90, Reporting Information; on or about October 27, 1994, you were on duty at Central Jail, when, contrary to jail procedures, you relieved Deputy Kluth in module 4400 so he could remove Inmate [redacted] from a secured area and confront [redacted] alone. Deputy Kluth subsequently became involved in an altercation with [redacted] You told a deputy who came to the module to assist in subduing the inmate to relieve you in the booth and you then participated in the use of force on Inmate [redacted] You used force on Inmate [redacted] and did not fully report your actions to a supervisor. Mr. [redacted] sustained a fractured left testicle as a result of the force used. The force you and the other involved deputies reported is not consistent with the injuries sustained by Mr. [redacted] Your written report of the incident did not fully detail the force you used on Mr. [redacted] and it did not include the fact that other deputies were present in the module, two of whom assisted in subduing the inmate. You were also aware that there were several inmate witnesses to the incident, but did not include the witnesses' names in your report.

A Tradition of Service

2. That in violation of Manual Section 3-01/030.23, Unreasonable Force, on or about October 27, 1994, you were on duty at Central Jail, when, contrary to jail procedures, you relieved Deputy Kluth in module 4400 so he could remove Inmate [redacted] from a secured area and confront [redacted] alone. Deputy Kluth subsequently became involved in an altercation with [redacted] You told a deputy who came to the module to assist in subduing the inmate, to relieve you in the booth and you then participated in the use of force on Inmate [redacted] You used force on Inmate [redacted] and did not fully report your actions to a supervisor. Mr. [redacted] sustained a fractured left testicle as a result of the force used. The force you and the other involved deputies reported is not consistent with the injuries sustained by Mr. [redacted] Your report of the incident did not fully detail the force you used on Mr. [redacted] and it did not include the fact that other deputies were present in the module, two of whom assisted in subduing the inmate. You were also aware that there were several inmate witnesses to the incident, but did not include the witnesses' names in your report.

In taking this disciplinary action, your record with this Department has been considered, and a thorough review of this incident has been made by Department executives, including your Unit and Division Commanders.

You may respond to the intended discharge orally or in writing. In the event you choose to respond orally to these charges, you have already been scheduled to meet with Chief King on April 29, 1997, at 0930 hours, in his office, which is located at Men's Central Jail, 441 Bauchet Street, Los Angeles, [redacted]. If you are unable to appear at the scheduled time and wish to schedule some other time prior to April 29, 1997, for your oral response, please call Chief King's secretary at [redacted] by April 17, 1997, for an appointment. If you choose to respond in writing, send your response to the facts contained in this letter to Chief Kings's office by April 29, 1997.

Pursuant to Rule 16.01 of the Los Angeles County Civil Service Commission Rules, effective immediately, you are on paid administrative leave which will continue during the fifteen (15) business days you have to respond to the intended discharge or until the conclusion of your pre-disciplinary hearing.

Failure to respond to this Letter of Intent within fifteen (15) business days will be considered a waiver of your right to respond and will result in the imposition of the discipline indicated herein.

To review the investigative material on which your discipline is based, you may contact the Internal Affairs Bureau at [redacted] to obtain a copy of the case file.

The Sheriff's Department reserves the right to amend and/or add to this letter.

Sincerely,

SHERMAN BLOCK, SHERIFF

Norman L. Smith, Captain
Internal Affairs Bureau

Note: Attached for your convenience are excerpts of the applicable areas of the Manual of Policy and Procedures.

NLS:JN:mcw

cc: Civil Service Advocacy
Employee Relations Unit
Barry S. King, Chief, Custody Division
Internal Affairs Bureau
(File # IAB 008383)

Deputy Gary Sloan, #[redacted]
(Attachment)

5-09/430.00 Use Of Force Reporting And Review Procedures

Any use of force which is greater than that required for unresisted Department-approved searching or handcuffing must be reported. Additionally, any use of force which results in an injury or complaint of pain must be reported.

Responsibilities for Reporting the Use of Force

Members shall immediately make a verbal notification to their immediate supervisor (in this section, "supervisor" refers to a minimum rank of sergeant) in all cases in which they use reportable force. Members witnessing reportable force shall immediately advise their supervisor, who will determine whether a separate report by the witness(es) is required.

Whenever an incident involving reportable force requires a first report, all details regarding the use of force shall be included in the report. A reference to the verbal notification and the name of the supervisor to whom it was made shall be included in the first report. Each assisting member who used force, including partners, shall submit a separate supplementary report detailing his actions.

Each member reporting force or memorandum shall describe in detail the actions of the suspect necessitating the use of force and the specific force used in response to the suspect's actions. Any injuries or complaint of injuries, and any medical treatment or refusal of medical treatment, shall be documented in the first report, supplementary reports or memoranda.

Transporting Suspects

Whenever a suspect on whom force was used is transported to a medical facility for examination or treatment prior to booking or housing in a custody facility, the transportating deputy shall immediately advise the field sergeant or immediate supervisor. The sergeant shall immediately advise the watch commander or supervising lieutenant that the suspect is being treated or examined following a deputy's use of force.

When a suspect must be transported from the field directly to County-USC Medical Center, IRC or SBI for booking, the watch commander or supervising lieutenant shall arrange to conduct the prisoner interview at the booking site, according to the procedures outlined in the sub-section entitled "Watch Commander's Responsibilities."

Medical Treatment

A suspect must be transported to a medical facility for examination/treatment by qualified medical personnel whenever:

- He strikes his head on a hard object, or sustains a blow to the head/face, as a result of the application of force by a deputy, regardless of how minor any injury to the head/face may appear. The deputy transporting the suspect shall inform the doctor that the suspect was struck on the head or struck his head,
- He is restrained with a carotid restraint, or any kind of neck/throat restraint, whether or not he is rendered unconscious. The deputy transporting the suspect shall inform the medical staff of the fact that the suspect was restrained with a carotid restraint whether or not he was rendered unconscious,
- He is hit with a specialized weapon projectile (such as an Arwen round, Taser dart, Stunbag, etc.),
- He is sprayed with Oleoresin Capisicum spray (unless qualified medical clearance is obtained in the field),
- He has injuries that appear to require medical treatment,
- He alleges any injury and requests medical treatment, whether or not he has any apparent injuries,
- He alleges that substantial force was used against him, whether or not he has any apparent injuries or requests medical treatment.

Any doubt regarding the need for medical treatment shall be resolved by transporting the suspect to an appropriate medical facility.

If the suspect refuses medical treatment in any of the cases previously described, he shall be transported to a medical facility and required to personally inform the medical staff of his refusal to receive medical treatment. The deputy transporting the suspect shall include in the appropriate report or memorandum the name of the medical personnel to whom the suspect indicated his refusal and the name of the medical staff member authorizing booking at the station or regular jail housing. In addition, an effort should be made to have the medical staff complete an admission report on the suspect and to indicate the suspect's refusal of medical treatment on that report.

If the medical staff indicates that the suspect should be treated despite his refusal, the suspect shall be transported to the County-USC Medical Center Jail Ward or to the appropriate Custody Division medical facility for treatment or medical review.

Immediate Supervisor's Responsibilities

The field sergeant or immediate supervisor shall respond without unnecessary delay to any incident involving reportable force, and shall immediately advise the watch commander or supervising lieutenant of any significant force incident.

Reportable force is significant when it involves any of the following:

- Suspect injury resulting from use of force,
- Complaint of pain or injury resulting from use of force,
- Indication or allegation of misconduct in the application of force,
- Any application of force that is greater than a Department-approved control hold or come-along. This includes the use of the hobble restraint in the total appendage restraint procedure.

In instances of significant force, the field sergeant or immediate supervisor shall do the following:

- Locate and interview all potential witnesses, including Department personnel, and document their statements, including those who could have witnessed but claim not to have witnessed the incident. In situations involving very large numbers of potential witnesses, the watch commander, or in the case of a PSTD Response Team rollout, the team lieutenant, shall determine the appropriate scope of the witness canvass necessary to sufficiently document the force incident,
- Photograph the scene in conditions as near as possible to those at the time of the force incident, if appropriate,
- Complete a "Supervisor's Report, Use of Force" (SH-R-438) for each member who used force,
- Interview the attending physician or other qualified medical personnel, when the suspect is taken to a medical facility for examination, as to the extent and nature of the suspect's injuries, or lack thereof, and whether the injuries are consistent with the degree of force reported,
- Photograph the deputies' injuries, if appropriate.

If the force used falls into one of the categories requiring a Professional Standards and Training Division Response Team, the sergeant's or immediate supervisor's function shall be limited to notifying the watch commander, identifying and interviewing witnesses and preserving the scene and evidence as appropriate.

Reportable force is less significant when it is limited to any of the following and there is no injury or complaint of pain nor any indication of misconduct:

- Searching and handcuffing techniques resisted by the suspect,
- Department-approved control holds or come-alongs,

- Use of the hobble restraint,
- Use of O.C. spray,

Use of O.C. Spray is not considered significant force if it causes only discomfort and does not involve injury or lasting pain. In these cases, the field sergeant or immediate supervisor shall:

- Advise the watch commander or supervising lieutenant as soon as possible,
- Interview the person/prisoner if practical,
- Complete a "Supervisor's Report, Use of Force" (SH-R-438) for each member who used force and include a narrative briefly documenting the circumstances and synopsizing any statements acquired,
- Ensure distribution of the SH-R-438 as indicated on the form.

Watch Commander/Supervising Lieutenant's Responsibilities

The watch commander or supervising lieutenant shall, with extreme priority, personally examine any suspect/inmate on whom significant force has been used and interview him regarding the incident. When interviewing suspects/inmates regarding use of force incidents, the watch commander shall ask the person if he has any injuries, the nature of the injuries, and if he wants medical treatment. These questions must be asked whether or not the suspect/inmate has any apparent injuries. (Refer to the section entitled "Medical Treatment" for required treatment.) If the suspect is taken to a medical facility for examination or treatment, the watch commander shall ensure that a supervisor interviews the examining physician or qualified medical personnel as to the extent of the injuries, or lack thereof, and whether the injuries are consistent with the degree of force reported.

The watch commander/supervising lieutenant shall tape-record the interview of the suspect/inmate and, if appropriate, photograph him, paying particular attention to any known or alleged areas of injury. (Obtain suspect consent for photographing injuries hidden by clothing.) The watch commander/supervising lieutenant should also consider video-taping the interview when appropriate.

The watch commander/supervising lieutenant shall submit a force review package (see subsection entitled "Force Review Package") to the unit commander as soon as possible detailing the results of his review and his recommendation as to whether further action or investigation is warranted.

Requesting a PSTD Response Team

The watch commander/supervising lieutenant is responsible for immediately notifying the on-call Internal Affairs Bureau lieutenant in any of the following situations involving force or allegations thereof:

- Hospitalizations due to injuries caused or allegedly caused by any Department member,
- Skeletal fractures caused or allegedly caused by any Department member,
- Significant force used by any Department member during or following a vehicular or foot pursuit,
- All large party situations where force is used,
- Injury or complaint of injury to a person's head, resulting in hospital treatment, following contact with any Department member. (This does not apply to contamination due to O.C. spray.),
- All head strikes with impact weapons,
- Canine bites resulting in medical treatment,
- Any death following a contact with any Department member.

The Internal Affairs Bureau lieutenant shall determine whether the response of a Professional Standards and Training Division response team is appropriate. If a response team is to be sent, the Internal Affairs Bureau lieutenant shall direct the watch commander/supervising lieutenant as to whether to conduct a suspect/inmate interview.

The watch commander/supervising lieutenant shall immediately notify the unit commander of any incident requiring a Professional Standards and Training Division response. (See section entitled "Professional Standards and Training Response Teams.")

In any situation in which a response team responds to conduct a force review, the watch commander/supervising lieutenant shall cooperate with and assist team personnel in conducting the review. Neither the watch commander/supervising lieutenant nor the sergeant shall conduct a suspect/inmate interview unless directed to do so by the Internal Affairs Bureau lieutenant. A unit level force review package shall not be submitted on any force incident which is documented by PSTD team personnel who have responded to the scene.

Watch Sergeant/Line Sergeant's Responsibilities

Sergeants approving reports shall ensure that all pertinent information is contained in the crime report. Particular attention should be given to the description of the use of force and the suspect's actions compelling the use of force.

After approving reports involving the use of force, the sergeant shall ensure that a photocopy of the approved crime report is forwarded immediately to the concerned watch commander for inclusion in the force review package.

Force Review Package

The watch commander/supervising lieutenant shall prepare and submit a force review package to the unit commander for all reviews of significant force not conducted by a PSTD response team. The force review package shall include the following items:

- Watch commander's memorandum to the unit commander detailing the findings of the use of force review, including an explanation of the incident, witness/suspect statements and qualified medical personnel's statement,
- Supervisor's Reports, Use of Force,
- Copy of SH-R-49 and related supplemental reports,
- Copy of in-service rosters for the concerned shift(s),
- Copy of medical reports,
- Photographs or video-tape of suspect's injuries or areas of alleged injury (copies of booking photographs may also provide excellent documentation),
- Tape-recording or video-tape of watch commander's interview of suspect, inmate and/or witnesses,
- Tape recording of the sergeant's/supervisors' witness interviews,
- Any related material which is deemed significant or serves to further document the incident, such as dispatch or complaint telephone tapes, other photos, etc.

The force review package shall be forwarded to the unit commander for approval. Force review package material is to be retained at the unit level until further notice.

Unit Commander's Responsibilities

The unit commander shall evaluate all force review packages and the watch commander/supervising lieutenant's findings concerning the use of force. The unit commander shall determine if further action or investigation is necessary. If further investigation is warranted, he may either initiate an administrative investigation or request an investigation by the Internal Criminal Investigations Bureau. The unit commander shall ensure that the member(s) who used force are notified as soon as possible in any case requiring further investigation.

In all use of force incidents wherein the on-call IAB lieutenant is notified or when a suspect or prisoner is transported to a hospital for medical treatment, the unit commander shall forward copies of the following documents to both the division chief and the Internal Affairs Bureau within three business days:

-The watch commander/supervising lieutenant's detailed memos,
-The "Supervisor's Reports, Use of Force,"
-All related SH-R-49 reports.

The unit commander is also responsible for ensuring the additional distribution of the Supervisor's Reports, Use of Force as follows:

-Original to Professional Standards and Training Division Headquarters,
-Copy with Force Review Package,
-Copy to employee.

Division Chief's Responsibilities

The division chief shall, within three business days of receipt, review all use of force incidents in which a suspect or prisoner is transported to a medical facility for treatment. The division chief shall note his concurrence with the unit level force review on the documents and return them to the unit for retention in the unit file. In the event that the division chief does not concur, he may specify to the unit commander the additional steps necessary to satisfactorily complete the package or notify the chief of Professional Standards and Training Division and request an administrative investigation by Internal Affairs Bureau.

Internal Affairs Bureau Responsibilities

Internal Affairs Bureau personnel shall, within three business days of receipt, review all until level force review package documents forwarded by the unit commander. The purpose of the IAB review is to ensure that a disinterested, experienced investigator examines the incident in terms of policy adherence, potential liability and completeness of documentation. The reviewing IAB investigator shall notify the IAB captain of any incident in which he feels further documentation or investigation is appropriate. The IAB captain will in turn notify the chief of the Professional Standards and Training Division and the concerned unit commander. The chief of the PSTD will notify the concerned division chief of any IAB request for further documentation or investigation.

3-01/030.10 Obedience to Laws, Regulations, and Orders

e) Members who violate any rules, regulations, or policies of the Department or the County shall be subject to disciplinary action. The commission or omission of any other act contrary to good order and discipline shall also be the subject of disciplinary action.

According to the nature of the offense, and in conformance with the rules of the County Office of Human Resources, disciplinary action may include, but is not limited to, the following:

- A reprimand (written) *
- Suspension without pay
- Reduction in rank
- Dismissal from the Department

3-01/040.90 Reporting Information

A member shall promptly report to his immediate supervisor any information or incident coming to his attention that might indicate the need for Department action.

3-01/030.23 Unreasonable Force

Unreasonable force is any use of force by Department members when the necessity exists, but which exceeds the degree of force that is objectively reasonable to protect themselves or others, or to overcome resistance to their lawful authority. The use of force against a person who has been subdued, restrained, or otherwise incapacitated, and who clearly no longer represents an immediate threat to Department personnel or to others, is unreasonable force.

P 392 391 453

US Postal Service

Receipt for Certified Mail

No Insurance Coverage Provided.
Do not use for International Mail *(See reverse)*

Sent to
MR. GARY SLOAN
[redacted]

Postage	$ .78
Certified Fee	1.10
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt Showing to Whom & Date Delivered	1.10
Return Receipt Showing to Whom, Date, & Addressee's Address	
TOTAL Postage & Fees	$ 2.98

Postmark or Date
4-16-97 mj

PS Form **3800**, April 1995

IAB A.D

COUNTY OF LOS ANGELES

SHERIFF'S DEPARTMENT

DATE: November 26, 1996
FILE NO. 008383

OFFICE CORRESPONDENCE

FROM: WILLIAM CHRISTIANSEN, CAPTAIN
MEN'S CENTRAL JAIL

TO: GERALD W. MINNIS, CHIEF
PROFESSIONAL STANDARDS
AND TRAINING DIVISION

SUBJECT: GARY SLOAN, DEPUTY SHERIFF, #[redacted]
MEN'S CENTRAL JAIL
CUSTODY DIVISION SOUTH

Upon consideration of the facts developed in this investigation, I have determined that Subject Sloan is to be Discharged for the reasons set forth in the attached documentation. This decision may be reconsidered based on the employee's response.

Barry S. King, Chief

3/10/97
Date

CASE REVIEWED BY:

Robert F. Mann Assistant Sheriff	Michael E. Graham Assistant Sheriff
4/8/97 Date	Date
Jerry L. Harper Undersheriff	
4/8/97 Date	

Severity of Infraction

Deputies assigned to a custody facility have the responsibility to provide available resources and most importantly, ensure an inmate's safety. The subject's application of force to assist a fellow deputy and overcome the inmate's physical resistance can only be characterized as excessive. His actions resulted in the inmate losing a testicle.

Truthfulness and Acceptance of Responsibility

The subject, along with three other involved deputies characterizes the use of force as minimal. Their accounts, however, differ markedly from the involved inmate and witnesses, one being a fellow deputy. In addition, the injuries sustained by the inmate do not correspond to the amount force articulated by the four primary subjects.

Intent and Degree of Culpability

The injury sustained by the inmate exceeds the information articulated by the four primary subjects and reflects retribution, rather than an attempt to overcome resistance.

Past Performance and Disciplinary History

The subject has for more than two years been assigned to the Arson and Explosives Detail in a relieved of duty status. Supervisors at that unit praise his attitude and work ethic. The subject was also the Honor Cadet in Class #279. Prior to being relieved of duty, the subject received one probationary evaluation and one "very good" performance evaluation. He has no formal discipline, and was hired in December of 1991.

DISPOSITION WORKSHEET

Re: I.A.B. File # 008383
Subject: Deputy Gary Sloan #[redacted]
Investigators: Sergeants Nemeth & Gjendem
Advocate: Lieutenant Ron Tardiff
Advocacy/IA Review: February 9, 1996

SUMMARY:

On October 27, 1994, Deputy Kluth (4400 Module Officer) left the security booth after being relieved by Deputy Sloan. Kluth left the security booth to confront an inmate (later identified as Complainant [redacted] who had left his cell without authorization. Kluth had locked [redacted] on "B" row because [redacted] had refused to return to his cell. Kluth confronted [redacted] alone and removed him from "B" row, directing him to assume a searching position on a wall in the sally port area. When Kluth attempted to handcuff [redacted] he resisted and began wrestling with Kluth. Kluth and [redacted] fell to the floor as deputies [redacted] and [redacted] arrived. (Sloan said he had been talking to [redacted] a 5000 floor prowler, on the phone when he noticed the altercation between Kluth and [redacted] and told [redacted] he needed help in module 4400.)

9000 floor Deputies Romero, Broad, Kammer, and Barrett heard a P.A. announcement and also responded to module 4400. Deputy Barrett held the module door for the group and as Romero entered the module, Sloan told him to relieve him in the booth, which he did. Sloan exited the booth and joined the other deputies in using force on [redacted] Kluth was on [redacted] upper left torso area, Sloan on his left buttock area, [redacted] on his upper left torso area, and [redacted] on [redacted] right lower torso/upper right leg area. Deputies Broad and Kammer each held down one of [redacted] legs. Barrett reportedly never touched [redacted] and Deputy Romero remained in the security booth for the duration of the incident.

Deputies Romero, Barrett, Kammer, and Broad all left module 4400 before a supervisor arrived and they never reported their presence there to anyone. Sloan, [redacted] and Kluth all reported punching and applying control holds on [redacted] but they all denied ever kicking [redacted] or touching his testicles or groin area. The reports submitted by Sloan, Kluth, [redacted] and [redacted] are vague and, according to the interview statements, the reports do not list all of the force they used on [redacted] The reports also do not mention that Barrett, Broad, Kammer, and Romero were present during the use of force.

[redacted] was taken to the M.C.J. clinic and he only complained about a laceration over his left eye. Sgt. Duncan, the acting watch commander, interviewed [redacted] on video tape and [redacted] stated that he received his injuries while fighting with gang members in his cell. Duncan did not challenge the inconsistencies of [redacted] statement as compared to what the deputies reported. [redacted] was taken to L.C.M.C. for head X-rays and nine sutures were applied to a laceration

over his left eye. Upon arrival at L.C.M.C., [redacted] complained of testicle pain to the examining physician and said that deputies had kicked him "in the balls." The doctor discovered that [redacted] had sustained a severely fractured left testicle, which required surgical removal.

Four inmate witnesses were located who had observed and/or heard some or all of the altercation. One inmate ([redacted] had been locked in the "B" row shower directly in front of where the incident occurred. He identified Deputy [redacted] from a photo line up and described a deputy with an orange flat top similar to Sloan's as being two of the deputies he saw kick [redacted] during the incident. He said that Sloan held one of [redacted] legs and kicked [redacted] in the groin while another unknown deputy held [redacted] other leg spread apart. Another inmate ([redacted] heard the deputy who had relieved Kluth in the booth (Sloan) say to a responding deputy (possibly Romero), "Go ahead and get you some!" to which the other deputy replied, "Naw, its already under control." [redacted] then heard Sloan say, "Well, come in and cover the booth while I get mine!" Two other inmate witnesses [redacted] and [redacted] also described similar observations.

It was not known that Broad, Barrett, Kammer, and Romero were present and/or involved during the use of force until the 4000 control booth deputy said that she saw them run into 4400 during the incident. Kammer and Broad stated that the reason they did not report that they used force during the incident was because they felt that their action of restraining [redacted] legs by holding them to the floor did not require reporting under the Department's force policy. Barrett denied seeing any force used or using any force himself and said he arrived in the module after the incident was over. Romero said he never touched [redacted] but he admitted witnessing force and said that he did not personally report it to a sergeant, but instead told [redacted] to tell the sergeant for him. Romero stated that [redacted] told him that Sergeant Duncan said that he (Romero) didn't have to write a report about what he saw. Romero said that he saw Kluth, Sloan, [redacted] and [redacted] each punch [redacted] 10 to 15 times. Although Romero denies seeing any deputies kick [redacted] he said that he saw Sloan "throw" his knee into [redacted] left buttock area.

Sergeant Mosley, the 4000 floor sergeant, approved Kluth's SHAD 49 report, which lacked detail regarding the exact force Kluth used. The supplemental reports submitted by [redacted] and Sloan also lacked required detail and none were signed as approved by a sergeant. Sergeant Mosley did not personally nor instruct anyone else to check for witnesses to the force incident. Sergeant Mosley wrote a supervisor's use of force memorandum that was extremely lacking in detail and did not address several pertinent issues.

Sergeant Duncan, the acting watch commander, did not challenge [redacted] inaccurate account of the force incident. Duncan also completed a watch commander's use of force package without reading the reports submitted by the involved deputies. Sergeant Duncan accepted Sergeant Mosley's use of force memorandum, without requesting corrections or additions. Sergeant Duncan wrote a watch commander's use of force memorandum and submitted a use of force package that was lacking in detail and did not address several pertinent issues.

The following suggested charges were prepared by the Advocacy Unit in consultation with the assigned Internal Affairs Investigator. Please indicate your disposition of each suggested charge and put any additional charges (with references to the investigation) on an attached sheet.

DISPOSITION OF CHARGES

Potential Charges:

1. That in violation of Manual Section 5-09/430.00, (Use of Force Reporting and Review Procedures) and/or 3-01/030.10(e), (Obedience to Laws, Regulations, and Orders), ~~and/or 3- (Reporting Information),~~ and/or 3-01/040.70, (False Statements), and/or 3-01/040.75 (Making False During a Departmental Internal Investigation) on or about October 27, 1994 Deputy Sloan was on duty at Central Jail, when, contrary to jail safety procedures, Sloan relieved Deputy Kluth in module 4400 so Kluth could remove Inmate [redacted] from a secured area and confront him alone. Deputy Kluth subsequently became involved in an altercation with Inmate [redacted] Sloan told a deputy responding to assist (Romero) to relieve him in the booth and Sloan joined other deputies in using force on [redacted] Mr. [redacted] sustained a fractured left testicle as a result of the force used. The force Deputy Sloan and other deputies reported is not with the injuries sustained by Mr. [redacted] Sloan's report of the incident did not fully detail the force he used on Mr. [redacted] and it did not include the fact that four other deputies were present in the module during the altercation and that there were inmate witnesses to the incident.

Evidence Reference:

[redacted] interview, 10-29-94, page 4 ([redacted] said he was standing in the "B" row shower approximately 1-2 feet away from where Kluth and [redacted] were struggling.)

[redacted] interview, 10-29-94, page 27-28 (Saw 3-4 deputies kick [redacted] in the stomach and chest area.)

[redacted] interview, 10-29-94, page 41 (Said he saw a deputy with "orange hair" standing up and holding [redacted] right leg, who said something similar to "you're gonna die" to [redacted]

[redacted] interview, 10-29-94, page 52-53 (Saw deputies continue to hit [redacted] after he was handcuffed.)

[redacted] interview, 10-31-94, page 11 ([redacted] said he remembered deputies kicking [redacted] while face down with his chest on the floor. [redacted] said a deputy with short, orange hair cut in a flat top style was holding [redacted] right leg while other s kicked him.)

[redacted] interview, 12-13-94, page 3 (Saw one deputy punch [redacted] in the face five times, while another deputy kicked [redacted]

[redacted] interview, 12-13-94, page 45 (Saw [redacted] get kicked multiple times by deputies who were standing around him.)

[redacted] interview, 12-13-94, page 60-61 ([redacted] stated that he saw [redacted] kicked by deputies a total of 20-25 times and punched by deputies a total of approximately 50 times.)

[redacted] interview, 10-31-94, page 5-6 (Saw Sloan relieve Kluth in module 4400 security booth and saw Kluth place [redacted] n a searching position on a wall in the module.)

[redacted] interview, 10-31-94, page 9 (Saw a black trusty on the phone (Witness [redacted] in module 4400 entry way.)

[redacted] interview, 10-31-94, page 17 (Stated that another trusty [redacted] A.K.A. [redacted] told him that he saw deputies kicking [redacted]

[redacted] interview, 10-31-94, page 33-34 (Said that he saw a white inmate locked in the "B" row shower during the force incident.)

[redacted] interview, 12-7-94, page 39 (Said he saw another trusty (Witness [redacted] standing on "D" row during incident.)

[redacted] interview, 10-31-94, page 14-15 (Stated that he

heard the deputy who had relieved Kluth in the module officer's booth [Sloan] say to another deputy who ran into the module, "Go ahead and get yours". [redacted] said he heard the responding deputy reply, "Naw, I'll pass on this one." The deputy in the booth then said, "Well, come in and cover the booth while I get mine."

[redacted] interview, 10-31-94, page 15 (Said he heard a lot of scuffling noises like shoes squeaking on the floor.)

[redacted] interview, 10-31-94, page 16 (Said he heard [redacted] say, "Alright, I give up; Alright, I give up! I'm down, I'm down, I'm down!" [redacted] said he heard other deputies arriving in the module along with the sounds of keys jingling, shoes squeaking on the floor, and 'thump' sounds, as if a punching bag was being hit.)

[redacted] interview, 11-17-94, page 5 ([redacted] identified Kluth from a photo show up folder.)

[redacted] interview, 11-17-94, page 10 ([redacted] identified Sloan from a photo show up folder.)

[redacted] interview, 12-27-94, page 17 ([redacted] said he sat on the floor in front of cell # D-10 and although he could not see [redacted] and Kluth on the floor, he heard shoes squeaking and keys jingling.)

[redacted] interview, 12-27-94, page 24-25 (Saw one deputy making "kicking motions" toward [redacted]

[redacted] interview, 12-27-94, page 105 (Saw a heavy set, black trusty on the phone (Witness [redacted] when the force incident started.)

[redacted] interview, 12-27-94, page 116 (Did not actually see kicking, but saw deputy making kicking motions and heard sounds that appeared to be kicking.)

[redacted] interview, 2-23-95, page 5-6 (Saw unknown deputies punching and kicking, but did not see punches and kicks contacting anyone. However, heard someone groaning and swearing.)

[redacted]nterview, 10-28-94, page 3 (Stated one deputy grabbed his testicles and squeezed them.)

[redacted]nterview, 10-28-94, page 4 and 45-46 (Stated that he made up a story about being in a fight with gang members because he was afraid of retaliation if he reported the true sequence of events.)

[redacted]nterview, 10-28-94, page 27 (Stated that unknown deputies spread his legs apart and kicked him in the testicle 7 to 10 times.)

[redacted]nterview, 10-28-94, page 30 (Stated that his hands were cuffed before he was kicked in the testicles.)

Romero interview, 12-7-94, page 3-4 (Romero stated that As he first arrived in module 4400, Sloan told him to relieve him in the 4400 booth.)

Romero interview, 12-7-94, page 14 (Saw inmate in "B" row shower [Witness [redacted]

Romero interview, 1-30-95, page 8-9 (Romero said he "doesn't remember" Sloan saying to him as he arrived in the module to assist, "Go ahead and get you some.")

Romero interview, 1-30-94, page 23 (Romero stated that "its definitely possible" that some deputies kicked [redacted]during the incident.)

Romero interview, 11-1-95, page 3-5 & 45 (Romero stated that he saw Sloan, [redacted]and Kluth on top of [redacted]hitting [redacted]n the ribs and back.)

Romero interview, 11-1-95, page 10 (Romero stated that he saw Sloan approach [redacted]and "throw" his knee into [redacted]eft buttock area.)

Romero interview, 11-1-95, page 27 (Romero stated that he saw Sloan punch [redacted]n the rib and back area. Romero said, "Sloan was kneeing him [[redacted]I mean '*kneed*' him.")

Romero interview, 11-1-95, page 50-51 (Romero stated that Sloan punched [redacted] 10 to 15 times.)

Dunn interview, 11-3-94, page 3 (Stated that [redacted] told him he was repeatedly kicked in the groin by guards in jail.)

Dunn interview, 11-3-94, page 6 (Stated that [redacted] testicle was split into two parts. He noted bleeding above left testicle on spermatic cord.)

Dunn interview, 11-3-94, page 7 (Stated that [redacted] injury is consistent with blunt force trauma.)

Dunn interview, 11-3-94, page 8 (Stated that [redacted] left testicle was "turned into mush".)

Dunn interview, 1-5-95, page 3-4 (Stated that he noted dark blood around [redacted] left testicle, indicating the injury was "within a few hours old." "The testicle was splayed open and it appeared to be a very fresh injury.")

Dunn interview, 11-3-94, page 4 (Stated that [redacted] left testicle injury was consistent with a kick or knee to the groin.)

Dunn interview, 11-3-94, page 7 (Stated that [redacted] testicle injury could have been caused by one "good kick" or a number of "smaller, lesser" kicks.)

Dunn interview, 11-3-94, page 9-10 (Stated that [redacted] testicle injury was not likely caused by a squeezing, but rather was a "high force injury."

Conrad interview, 1-12-95, page 4 (Stated that when he examined [redacted] left testicle, it was "swollen to the size of a small orange."

Conrad interview, 1-12-95, page 17 (Stated that a "knee strike" could cause a fractured testicle.)

Halus interview, 12-22-94, page 6 (Stated that [redacted] left testicle fracture was not an old injury.)

Kammer interview, 12-20-94, page 20 (Kammer stated that he called Sloan after the force incident and asked if he needed to "submit any paperwork" and he said Sloan said he did not.)

Kammer interview, 12-20-94, page 39 (Kammer stated that Sloan told him that he did not have to write any reports for his involvement in the incident.)

Kammer interview, 11-15-95, page 60 (Kammer stated that he called Sloan after the force incident and told him about his [Kammer's] involvement in the force incident.)

Kammer interview, 12-20-94, page 82 (Kammer stated the reason he did not report his involvement in the force incident to a supervisor was because he assumed that Sloan would advise the sergeant that he [Kammer] was involved.)

Duncan interview, 12-14-95, page 20-21 (Duncan stated that he asked the four reporting deputies if anyone else was present during the force incident and they all said no one else was there.)

Mosley interview, 10-31-95, page 34 (Mosley said that he asked each reporting deputy if there were any witnesses to the force incident.)

Kluth interview, 12-14-95, page 3 & 16 (Kluth stated that Deputy Sloan came into the module to see if he [Kluth] wanted to take his lunch break with him.)

Milburn interview, 05-28-96, page 1&2 (Stated that Kluth's action of removing Inmate [redacted] from a secure area to confront him alone was against M.C.J. policy that was in effect on October 27, 1994. Milburn added that all personnel had been informed of the policy.)

Sloan interview, 12-8-95, page 4 (Sloan stated the reason he went to module 4400 was to visit Deputy Kluth, who was his friend, and see if Kluth wanted to take his lunch break.)

Sloan interview, 12-8-95, page 22 (Sloan stated that it

never occurred to him to notify the 4000 floor control booth or main control of the altercation occurring between Kluth and [redacted]

Sloan interview, 12-8-95, page 86 (Sloan stated that his report did not indicate that Romero relieved him in the module 4400 security booth.)

Sloan interview, 12-8-95, page 99-100 (Sloan stated that Sergeant Duncan told him to speak with the trusties of module 4400 to see if they witnessed the incident. Sloan said all of the trusties told him that they didn't see anything.)

Sloan interview, 12-8-95, page 111 (Sloan stated that he knew there had been an inmate in the "B" row shower during the incident, but he did not speak to the inmate [Witness [redacted] to see if he witnessed the incident.)

Exhibit B - Supplemental Report on Force Incident Written by Deputy Sloan

Exhibit L - Record of Subject Sloan's Previous Force Incidents

Exhibit T - Poloroid Photos of Complainants [redacted] Facial Injuries

Exhibit U - Photos of Complainant [redacted] Injuries

Exhibit V - Photos of Location of Incident

Exhibit X - Subject Sloan's Training Records

Exhibit Z - Stetch of Location of Incident by Witness [redacted]

Exhibit CC - Sketch of Module 4400 with Positions of Involved Individuals Indicated by Subject Sloan

Exhibit GG - Photo Show Up Folder - positive identification of Deputy Sloan by Complainant [redacted]

Exhibit I I - Photo Show Up Folder - positive identification of Deputy Sloan by Witness [redacted]

Exhibit JJ - Photo Show Up Folder - positive identification of Deputy Sloan by Witness [redacted]

Exhibit MM - M.C.J. Policy in effect on October 27, 1994 for Handling Recalcitrant Inmates

Defense/Conflicting Evidence Summary:

Sloan interview, 12-8-95, page 41-42 (Sloan stated that he did not punch or kick [redacted]

Sloan interview, 12-8-95, page 45 (Sloan stated that he did not see Deputies Broad or Kammer in module 4400.)

Sloan interview, 12-8-95, page 48-49 (Sloan stated he spoke to Deputy Broad later in the shift and Sloan said that Broad did not tell him that he [Broad] had been involved in the force incident.)

Sloan interview, 12-8-95, page 49 (Sloan stated that he did not speak with Deputy Kammer regarding the force incident.)

Sloan interview, 12-8-95, page 56 (Sloan stated that he did not kick [redacted]

Sloan interview, 12-8-95, page 94 (Sloan stated that he did not document that Deputy Romero had relieved him in the booth in his report because he thought that his report should only document the actions he took.)

Sloan interview, 12-8-95, page 83 (Sloan stated that he submitted his supplemental report to Sergeant Mosley for approval.)

Sloan interview, 12-8-95, page 122 (Sloan stated that he did not say, "Go ahead and get you some."

Mosley interview, 10-31-95, page 33 (Mosley stated that his force memo does not detail exactly what force each deputy used and he does not remember what each deputy

said regarding the force that they used on [redacted]

Disposition:

☐ **Charge sustained as delineated** ☒ **Charge sustained as modified** ☐ **Charge unresolved** ☐ **Charge unfounded**

Potential Charges:

2. That in violation of ~~Manual Section 3-01/030.20, (Use of Force), and/or Manual Section 3-01/030.21 (Unnecessary Force), and/or~~ Manual Section 3-01/030.23 (Unreasonable Force), and/or Manual Section 3-01/040.90 (Reporting Information), on or about October 27, 1994, Deputy was on duty at Central Jail, when, contrary to jail safety procedures, Sloan relieved Deputy Kluth in module 4400 so Kluth could remove Inmate [redacted] from a secured area and confront him alone. Deputy Kluth subsequently became involved in an altercation with Inmate [redacted] Sloan told a deputy responding to assist (Romero) to relieve him in the booth and Sloan joined other deputies in using force on [redacted] Mr. [redacted] sustained a fractured left testicle as a result of the force used. The force Deputy Sloan and other deputies reported is not with the injuries sustained by Mr. [redacted] Sloan's report of the incident did not fully detail the force he used on Mr. [redacted] and it did not include the fact that four other deputies were present in the module during the altercation and that there were inmate witnesses to the incident.

Evidence Reference:

[redacted] interview, 10-29-94, page 4 ([redacted] said he was standing in the "B" row shower approximately 1-2 feet away from where Kluth and [redacted] were struggling.)

[redacted] interview, 10-29-94, page 27-28 (Saw 3-4 deputies kick [redacted] in the stomach and chest area.)

[redacted] interview, 10-29-94, page 36 (Saw one deputy grab [redacted] hand and said, "I'm gonna break your fingers.")

[redacted] interview, 10-29-94, page 41 (Said he saw a deputy with "orange hair" standing up and holding [redacted] right

leg, who said something similar to "you're gonna die" to [redacted]

[redacted] interview, 10-29-94, page 52-53 (Saw deputies continue to hit [redacted] after he was handcuffed.)

[redacted] interview, 10-31-94, page 11 ([redacted] said he remembered deputies kicking [redacted] while face down with his chest on the floor. [redacted] said a deputy with short, orange hair cut in a flat top style was holding [redacted] right leg while other s kicked him.)

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[redacted] interview, 12-13-94, page 45 (Saw [redacted] get kicked multiple times by deputies who were standing around him.)

[redacted] interview, 12-13-94, page 60-61 ([redacted] stated that he saw [redacted] kicked by deputies a total of 20-25 times and punched by deputies a total of approximately 50 times.)

[redacted] interview, 10-31-94, page 17 (Stated that another trusty [redacted] A.K.A. [redacted] told him that he saw deputies kicking [redacted]

[redacted] interview, 10-31-94, page 33-34 (Said that he saw a white inmate [redacted] locked in the "B" row shower during the force incident.)

[redacted] interview, 12-7-94, page 5 (Saw Kluth push [redacted] into wall and then [redacted] spun around and began wrestling with Kluth.)

[redacted] interview, 12-7-94, page 10 (Saw Deputy [redacted] grab [redacted] testicles while [redacted] and Kluth were wrestling on the floor.)

[redacted] interview, 12-7-94, page 13 (Saw Kluth punch [redacted] in the face while screaming "Mother Fucker!")

[redacted] interview, 12-7-94, page 24 (Saw [redacted] grab [redacted] testicles while [redacted] was face down on the floor and then heard [redacted] say, "I give up; I give up!")

[redacted] interview, 10-31-94, page 15 (Said he heard a lot of scuffling noises like shoes squeaking on the floor.)

[redacted] interview, 10-31-94, page 16 (Said he heard [redacted] say, "Alright, I give up; Alright, I give up! I'm down, I'm down, I'm down!" [redacted] said he heard other deputies arriving in the module along with the sounds of keys jingling, shoes squeaking on the floor, and 'thump' sounds, as if a punching bag was being hit.)

[redacted] interview, 10-31-94, page 19 (saw Kluth push [redacted] toward wall and [redacted] spun around. Kluth grabbed [redacted] shirt and the two started wrestling with each other.)

[redacted] interview, 11-17-94, page 5 ([redacted] identified Kluth from a photo show up folder.)

[redacted] interview, 12-27-94, page 4-5 (Saw Kluth and [redacted] holding each other in a "bear hug" in front of "B" and "D" row gates.)

[redacted] interview, 12-27-94, page 17 ([redacted] said he sat on the floor in front of cell # D-10 and although he could not see [redacted] and Kluth on the floor, he heard shoes squeaking and keys jingling.)

[redacted] interview, 12-27-94, page 24-25 (Saw one deputy making "kicking motions" toward [redacted]

[redacted] interview, 12-27-94, page 116 (Did not actually see kicking, but saw deputy making kicking motions and heard sounds that appeared to be kicking.)

[redacted] interview, 2-23-95, page 5-6 (Saw unknown deputies punching and kicking, but did not see punches and kicks contacting anyone. However, heard someone groaning and swearing.)

[redacted]nterview, 10-28-94, page 3 (Stated one deputy grabbed his testicles and squeezed them.)

[redacted]nterview, 10-28-94, page 4 and 45-46 (Stated that he made up a story about being in a fight with gang members because he was afraid of retaliation if he reported the true sequence of events.)

[redacted]nterview, 10-28-94, page 27 (Stated that unknown deputies spread his legs apart and kicked him in the testicle 7 to 10 times.)

[redacted]nterview, 10-28-94, page 30 (Stated that his hands were cuffed before he was kicked in the testicles.)

Romero interview, 12-7-94, page 12 (Heard Kluth and [redacted] yelling at [redacted] but "doesn't remember" what they were saying to [redacted]

Romero interview, 12-7-94, page 14 (Saw inmate in "B" row shower [Witness [redacted]

Romero interview, 12-7-94, page 52 (Saw Kluth punching [redacted]as he arrived and saw Kluth punch [redacted] 10 to 15 times.)

Milburn interview, 05-28-96, page 1&2 (Stated that Kluth's action of removing Inmate [redacted] from a secure area to confront him alone was against M.C.J. policy that was in effect on October 27, 1994. Milburn added that all personnel had been informed of the policy.)

Dunn interview, 11-3-94, page 3 (Stated that [redacted] told him he was repeatedly kicked in the groin by guards in jail.)

Dunn interview, 11-3-94, page 6 (Stated that [redacted] testicle was split into two parts. He noted bleeding above left testicle on spermatic cord.)

Dunn interview, 11-3-94, page 7 (Stated that [redacted] injury is consistent with blunt force trauma.)

<u>Dunn</u> interview, 11-3-94, page 8 (Stated that [redacted] left testicle was "turned into mush".)

<u>Dunn</u> interview, 1-5-95, page 3-4 (Stated that he noted dark blood around [redacted] left testicle, indicating the injury was "within a few hours old." "The testicle was splayed open and it appeared to be a very fresh injury.")

<u>Dunn</u> interview, 11-3-94, page 4 (Stated that [redacted] left testicle injury was consistent with a kick or knee to the groin.)

<u>Dunn</u> interview, 11-3-94, page 7 (Stated that [redacted] testicle injury could have been caused by one "good kick" or a number of "smaller, lesser" kicks.)

<u>Dunn</u> interview, 11-3-94, page 9-10 (Stated that [redacted] testicle injury was not likely caused by a squeezing, but rather was a "high force injury."

<u>Conrad</u> interview, 1-12-95, page 4 (Stated that when he examined [redacted] left testicle, it was "swollen to the size of a small orange."

<u>Conrad</u> interview, 1-12-95, page 17 (Stated that a "knee strike" could cause a fractured testicle.)

<u>Halus</u> interview, 12-22-94, page 6 (Stated that [redacted] left testicle fracture was not an old injury.)

<u>Kluth</u> interview, 12-14-95, page 46 (Kluth stated that he did not know where Sloan was or if Sloan was watching him.)

<u>Kluth</u> interview, 12-14-95, page 56 (Kluth stated that he removed [redacted] from a locked row because he didn't think [redacted] would be combative.)

<u>Kluth</u> interview, 12-14-95, page 57 (Kluth stated that when he saw the "crazed look" in William's eyes, he didn't retreat to the module security booth because he didn't think that [redacted] would attack him.)

Kluth interview, 12-14-95, page 64 (Kluth stated that he did not notify the 4000 control booth, notify the floor prowlers, or request anyone assist him with [redacted]

Kluth interview, 12-14-95, page 68 (Kluth stated that he did not communicate with Sloan prior to or during his struggle with [redacted]

Kluth interview, 12-14-95, page 88-90 (Kluth stated that he does not know why he wrote in his report that Deputy Sloan arrived in the module together with Deputies [redacted] and [redacted]

Kluth interview, 12-14-95, page 92 (Kluth stated that he did not document in his report that he punched [redacted] in the left kidney 3 to 4 times.)

Kluth interview, 12-14-95, page 115-116 (Kluth stated that he was trained to request back up prior to confronting a recalcitrant inmate, but he did not do it in this case.)

Duncan interview, 12-14-95, page 20-21 (Duncan stated that he asked the four reporting deputies if anyone else was present during the force incident and they all said no one else was there.)

Duncan interview, 12-14-95, page 26-27 (Duncan stated his memo listed his concerns that Kluth should not have contacted [redacted] without additional back up present with him.)

Mosley interview, 10-31-95, page 34 (Mosley said that he asked each reporting deputy if there were any witnesses to the force incident.)

Mosley interview, 10-31-95, page 14-15 (Mosley stated that Kluth used improper tactics when he chose to confront a recalcitrant inmate alone. Mosley stated that Kluth should have called for back up and a supervisor.)

Mosley interview, 10-31-95, page 29-31 (Mosley stated that he signed and approved Kluth's report on the force incident, but after reviewing it again, Mosley said that the

report did not provide an accurate and articulate description of the force event.)

Sloan interview, 12-8-95, page 4 (Sloan stated the reason he went to module 4400 was to visit Deputy Kluth, who was his friend, and see if Kluth wanted to take his lunch break.)

Sloan interview, 12-8-95, page 22 (Sloan stated that it never occurred to him to notify the 4000 floor control booth or main control of the altercation occurring between Kluth and [redacted]

Sloan interview, 12-8-95, page 86 (Sloan stated that his report did not indicate that Romero relieved him in the module 4400 security booth.)

Sloan interview, 12-8-95, page 99-100 (Sloan stated that Sergeant Duncan told him to speak with the trusties of module 4400 to see if they witnessed the incident. Sloan said all of the trusties told him that they didn't see anything.)

Sloan interview, 12-8-95, page 111 (Sloan stated that he knew there had been an inmate in the "B" row shower during the incident, but he did not speak to the inmate [Witness [redacted] to see if he witnessed the incident.)

Exhibit B - Supplemental Report on Force Incident Written by Deputy Sloan

Exhibit L - Record of Subject Sloan's Previous Force Incidents

Exhibit T - Poloroid Photos of Complainants [redacted] Facial Injuries

Exhibit U - Photos of Complainant [redacted] Injuries

Exhibit V - Photos of Location of Incident

Exhibit X - Subject Sloan's Training Records

Exhibit Z - Stetch of Location of Incident by Witness [redacted]

Exhibit CC - Sketch of Module 4400 with Positions of Involved Individuals Indicated by Subject Sloan

Exhibit GG - Photo Show Up Folder - positive identification of Deputy Sloan by Complainant [redacted]

Exhibit I I - Photo Show Up Folder - positive identification of Deputy Sloan by Witness [redacted]

Exhibit JJ - Photo Show Up Folder - positive identification of Deputy Sloan by Witness [redacted]

Exhibit MM - M.C.J. Policy in effect on October 27, 1994 for Handling Recalcitrant Inmates

Defense/Conflicting Evidence Summary:

Sloan interview, 12-8-95, page 41-42 (Sloan stated that he did not punch or kick [redacted]

Sloan interview, 12-8-95, page 45 (Sloan stated that he did not see Deputies Broad or Kammer in module 4400.)

Sloan interview, 12-8-95, page 48-49 (Sloan stated he spoke to Deputy Broad later in the shift and Sloan said that Broad did not tell him that he [Broad] had been involved in the force incident.)

Sloan interview, 12-8-95, page 49 (Sloan stated that he did not speak with Deputy Kammer regarding the force incident.)

Sloan interview, 12-8-95, page 56 (Sloan stated that he did not kick [redacted]

Sloan interview, 12-8-95, page 94 (Sloan stated that he did not document that Deputy Romero had relieved him in the booth in his report because he thought that his report should only document the actions he took.)

Sloan interview, 12-8-95, page 83 (Sloan stated that he

submitted his supplemental report to Sergeant Mosley for approval.)

Sloan interview, 12-8-95, page 122 (Sloan stated that he did not say, "Go ahead and get you some."

Mosley interview, 10-31-95, page 33 (Mosley stated that his force memo does not detail exactly what force each deputy used and he does not remember what each deputy said regarding the force that they used on [redacted]

Disposition:

□ Charge sustained as delineated **X Charge sustained as modified** **□ Charge unresolved** **□ Charge unfounded**

DISCIPLINE ASSESSMENT

Assessment of Comparative Disciplines

The Department's Guidelines for Discipline lists the following analogous misconduct with the associated disciplinary penalties:

Failure to follow established rules and regulations:	Written Reprimand to Discharge (1st Offense); 5-30 day Suspension, Reduction, or Discharge (2nd Offense)
Untruthful Statements During Internal Investigations:	15-30 day Suspension to Discharge (1st Offense); Discharge (2nd Offense)
Lying to a Supervisor:	5-15 day Suspension to Discharge (1st Offense); 15-30 Suspension to Discharge (2nd Offense)
Falsification of Reports, Records, or Documents:	10-30 day Suspension to Discharge (1st Offense); Discharge (2nd Offense)

Using Force that is deemed unreasonable and/or unnecessary: 5-30 day Suspension to Discharge (1st Offense); 15-30 day Suspension to Discharge (2nd Offense); Discharge (3rd Offense)

Assessment of Mitigating and Aggravating Factors

The attached pages describe the mitigating and aggravating factors used in determining the disposition to this investigation. Those factors include:

- Intent
- Past Performance
- Degree of Culpability
- Disciplinary History
- Truthfulness
- Severity of Infraction
- Acceptance of Responsibility
- Other Factors

Management has considered the Subject's performance, which is documented in the Subject's Department personnel file, and those documents not contained in that file which are attached to this disposition worksheet.

Disposition

Based upon the foregoing assessment of mitigating and aggravating factors, the following is the recommended penalty, subject to revision upon receiving the Subject's response or grievance:

_✓_Discharge
___Reduction in Rank
___Suspension with loss of pay and benefits, for _______ days
___Written Reprimand
___No discipline recommended

MISCELLANEOUS

COUNTY OF LOS ANGELES - SHERIFF'S DEPARTMENT - SUPPLEMENTARY REPORT

DATE 11-16-94 FILE NO. 094-03357-5100-058

C- 243(e) P.C Action Taken C.A REJ./CASE CLOSED

V- KLUTZ DAVID

D- BKG #

S- [redacted] BKG # [redacted]

THE FACTS OF THIS CASE WERE PRESENTED TO THE CITY ATTORNEY'S OFFICE AT THE CHINATOWN BRANCH ON 11-15-94 AT WHICH TIME THE CASE WAS REVIEWED BY DEPUTY CITY ATTORNEY GETZ WHO:

☐ FILED MISDEMEANOR COMPLAINT NUMBER ____ CHARGING ____

☒ REJECTED FILING ANY CHARGES FOR THE FOLLOWING REASON(S): DEFT. IN CUSTODY FOR MORE SERIOUS OFFENSE, UNLIKELY TO RECEIVE ADDITIONAL TIME.

CASE INACTIVE - NO FURTHER WORKABLE [X]
CASE INACTIVE - CASE SOLVED (CLEARED) [ ]

*Note: If the "Solved" box is checked, you must check one of the following acceptable UCR Clearances:

Adult Arrested	[ ]	Cleared by:	
Juvenile Arrested	[ ]	Verified by:	
Unfounded	[ ]	Entered into	
Exceptional	[ ]	E.I. by:	
		Entered by:	

BY: F. ARVIZU [redacted]
APPROVED: SGT. F. YANEZ [redacted]
ASSIGNED: CUST. HQTRS / Jail Investigations Unit

761551N25A - SH-AD-32A (2/72) -

COUNTY OF LOS ANGELES

SHERIFF'S DEPARTMENT

DATE October 25, 1995

OFFICE CORRESPONDENCE

FILE NO.

FROM: GERALD W. MINNIS, CHIEF
PROFESSIONAL STANDARDS
AND TRAINING DIVISION

GWM

GERALD W. MINNIS

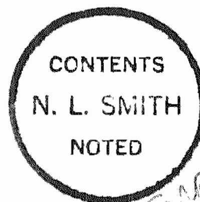
TO: NORMAN SMITH, CAPTAIN
INTERNAL AFFAIRS BUREAU

SUBJECT: **REQUEST FOR AN ADMINISTRATIVE INVESTIGATION**

Please initiate an administrative investigation relevant to the attached request memorandum from Chief Squiers.

GWM:gt

Attachment



761551N26A - SH-AD-32A (2/72) -

COUNTY OF LOS ANGELES

SHERIFF'S DEPARTMENT

DATE October 24, 1995

OFFICE CORRESPONDENCE

FILE NO.

FROM: MARK M. SQUIERS, CHIEF
CUSTODY DIVISION

Mark M. Squiers

TO: GERALD W. MINNIS, CHIEF
PROFESSIONAL STANDARDS AND
TRAINING

SUBJECT: **FORMAL REQUEST FOR INTERNAL AFFAIRS BUREAU INVESTIGATION**

RE: David Kluth #[redacted]
Gary Sloan #
[redacted] #
#
Cesar Romero #
Richard Barrett #
Todd Kammer #
John Broad #
Deputies, Men's Central Jail

In November 1994, a force incident occurred at Central Jail. After an initial inquiry, Deputies Kluth, Sloan, [redacted] and [redacted] were placed on relieved of duty status pending the outcome of an investigation. As this investigation has progressed, it has been determined that Deputies Romero, Barrett, Kammer and Broad should also be considered subjects.

As such, it is my request that the Internal Affairs Bureau continue their investigation with all of the above referenced personnel listed as subjects.

MMS:HHP:JF:nlf

761551N25A - SH-AD-32A (2/72) -

COUNTY OF LOS ANGELES

SHERIFF'S DEPARTMENT

DATE January 8, 1995

OFFICE CORRESPONDENCE

FILE NO. IAB 008383

FROM: MARK M. SQUIERS, CHIEF
CUSTODY DIVISIONS

TO: GERALD W. MINNIS, CHIEF
PROFESSIONAL STANDARDS
AND TRAINING DIVISION

SUBJECT: REQUEST FOR INTERNAL AFFAIRS BUREAU INVESTIGATION

I was advised by Sergeant John Nemeth of Internal Affairs Bureau that additonal information has come to light regarding an investigation being conducted by him into personnel at the Men's Central Jail.

I am requesting that Internal Affairs additionally include Sergeant Van Mosley and Sergeant Charles Duncan as subjects. Sergeant Mosley was named as a subject effective December 21, 1995.

[redacted]

4000 FLOOR

[redacted]

MODULE 4400

NOT TO SCALE

RECEIPT FOR PROPERTY

IAB Case 008383

December 1, 1995

I have received copies of Subjects Kluth, Sloan, [redacted] and [redacted] prior statements regarding the use of force related to the above IAB investigation.

Elizabeth Gibbons, ALADS Attorney

RECEIPT FOR PROPERTY

IAB Case 008383

November 14, 1995

I have received copies of audiotapes, summary of interviews, and audiotape interview transcriptions on the above numbered IAB case for the following individuals:

Deputy Richard Barrett
Deputy Todd Kammer
Deputy John Broad

Helen Schwab, Attorney

GREEN & SHINEE
ATTORNEYS AT LAW

RICHARD A. SHINEE
HELEN L. SCHWAB
ELIZABETH J. GIBBONS
MARLA A. BROWN

A PROFESSIONAL CORPORATION
SUITE 1000 / 16055 VENTURA BOULEVARD
ENCINO CALIFORNIA 91436/2680

TELEPHONE: (818) 986-2440; (213) 872-0258
TELECOPIER: (818) 789-1503

OF COUNSEL
HARRY BENTON GREEN
GOLDSCHMID, SILVER & SPINDEL

December 28, 1995

Attn: Sgt. John Nemeth
County of Los Angeles, Sheriff's Department
Internal Affairs Bureau
4900 Eastern Avenue, Room 100
Commerce, CA 90040

Re: Deputy David Kluth; Deputy's Use of Force Report

Dear Sgt. Nemeth:

This letter will serve as a follow-up to our recent conversation in which we discussed the above-referenced deputy's case.

Enclosed please find the Deputy's Use of Force Report which was started by Deputy Kluth before he was ordered to refrain from completing it by a supervisor. I note for the record that there are erasure marks on the document which show the "PRIMARY DEPUTY" box checked, a "DATE" of "27 Oct 94", a "FILE #" which is "N/A", and an "INMATES NAME" of [redacted]. There is also a "BKG #" of [redacted] Also, the section entitled "PAGE" has a "1" in the blank space.

Please let me know if you have any questions regarding this matter.

Very truly yours,

GREEN & SHINEE, A.P.C.

H. L. Schwab

By: HELEN L. SCHWAB

HLS:dep
94-0312a\DL1228.dep
Enclosure
cc: Deputy David Kluth (w/o encl.)

GREEN & SHINEE
ATTORNEYS AT LAW

RICHARD A. SHINEE
HELEN L. SCHWAB
ELIZABETH J. GIBBONS
MARLA A. BROWN

A PROFESSIONAL CORPORATION
SUITE 1000 / 16055 VENTURA BOULEVARD
ENCINO CALIFORNIA 91436/2680

TELEPHONE (818) 986-2440; (213) 872 0258
TELECOPIER (818) 789-1503

OF COUNSEL
HARRY BENTON GREEN
GOLDSCHMID, SILVER & SPINDEL

January 10, 1996

Sgt. John Nemeth
County of Los Angeles, Sheriff's Department
Internal Affairs Bureau
4900 Eastern Avenue, Room 100
Commerce, CA 90040

Re: Copy of Interview Tape, Deputy [redacted]

Dear Sgt. Nemeth:

Enclosed please find the above-referenced tapes in response to your recent request. The copies are the best we could make under the circumstances.

Very truly yours,

GREEN & SHINEE, A.P.C.

H L Schwab

By: HELEN L. SCHWAB

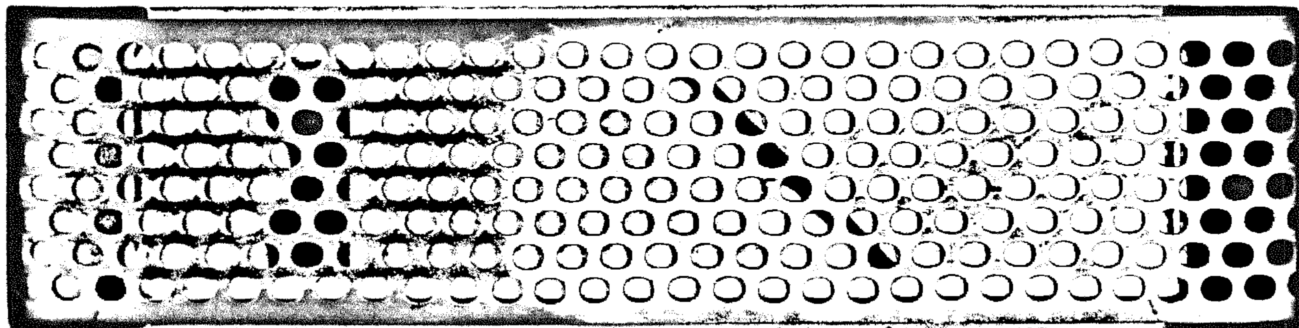
HLS:mb
94-0312\DLC0110.mb

David Lynn

Private Investigator
California License PI# 14639

P.O. Box 1372, Venice, CA 90291-1372
Tele/Fax (310) 306-3084

ATM - FROM VENICE



COUNTY OF LOS ANGELES

SHERIFF'S DEPARTMENT

DATE November 23, 1994

OFFICE CORRESPONDENCE

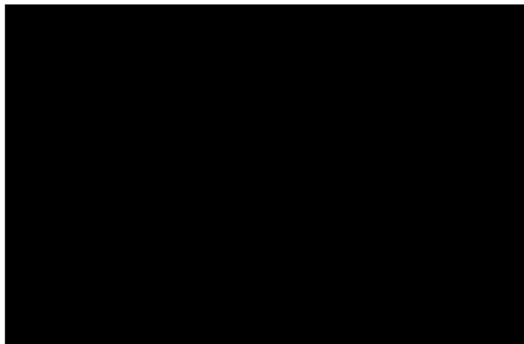
FILE NO. 094-03357-5100-058

FROM: JOHN A. NEMETH, SERGEANT
INTERNAL AFFAIRS BUREAU

TO: AL SCADUTO, CAPTAIN
CENTRAL JAIL

SUBJECT: INMATE WITNESS LIST
** CONFIDENTIAL **

Pursuant to your request, I am providing you with the following list of inmates who witnessed the force incident reported under the indicated file number. When I last checked, Inmates [redacted] and [redacted] were being housed at north county facilities.



1) [redacted]

2)

3)

4)

5)

If I can be of further assistance, please call me at my office [redacted]

761551N25A - SH-AD-32A (2/72) -

COUNTY OF LOS ANGELES

SHERIFF'S DEPARTMENT

OFFICE CORRESPONDENCE

DATE November 23, 1994

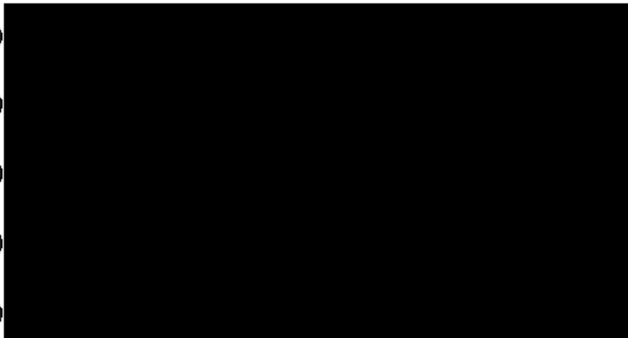
FILE NO. 094-03357-5100-058

FROM: JOHN A. NEMETH, SERGEANT
INTERNAL AFFAIRS BUREAU

TO: AL SCADUTO, CAPTAIN
CENTRAL JAIL

SUBJECT: INMATE WITNESS LIST
** CONFIDENTIAL **

Pursuant to your request, I am providing you with the following list of inmates who witnessed the force incident reported under the indicated file number. When I last checked, Inmates [redacted] and [redacted] were being housed at north county facilities.



1) [redacted]

2) [redacted]

3) [redacted]

4) [redacted]

5) [redacted]

If I can be of further assistance, please call me at my office [redacted]

MEDICAL AUTHORIZATION

TO: ______________________

____

____

I /WE HEREBY AUTHORIZE THE COUNTY OF LOS ANGELES, SHERMAN BLOCK, SHERIFF, OR HIS DEPUTY, AGENT, OR REPRESENTATIVE TO INSPECT, AND MAKE COPIES, INCLUDING PHOTOSTATIC COPIES, OF ALL MEDICAL RECORDS PERTAINING TO CARE AND TREATMENT RENDERED THE UNDERSIGNED.

PHOTOSTATIC COPIES OF THIS AUTHORIZATION WILL BE CONSIDERED AS VALID AS THE ORIGINAL.

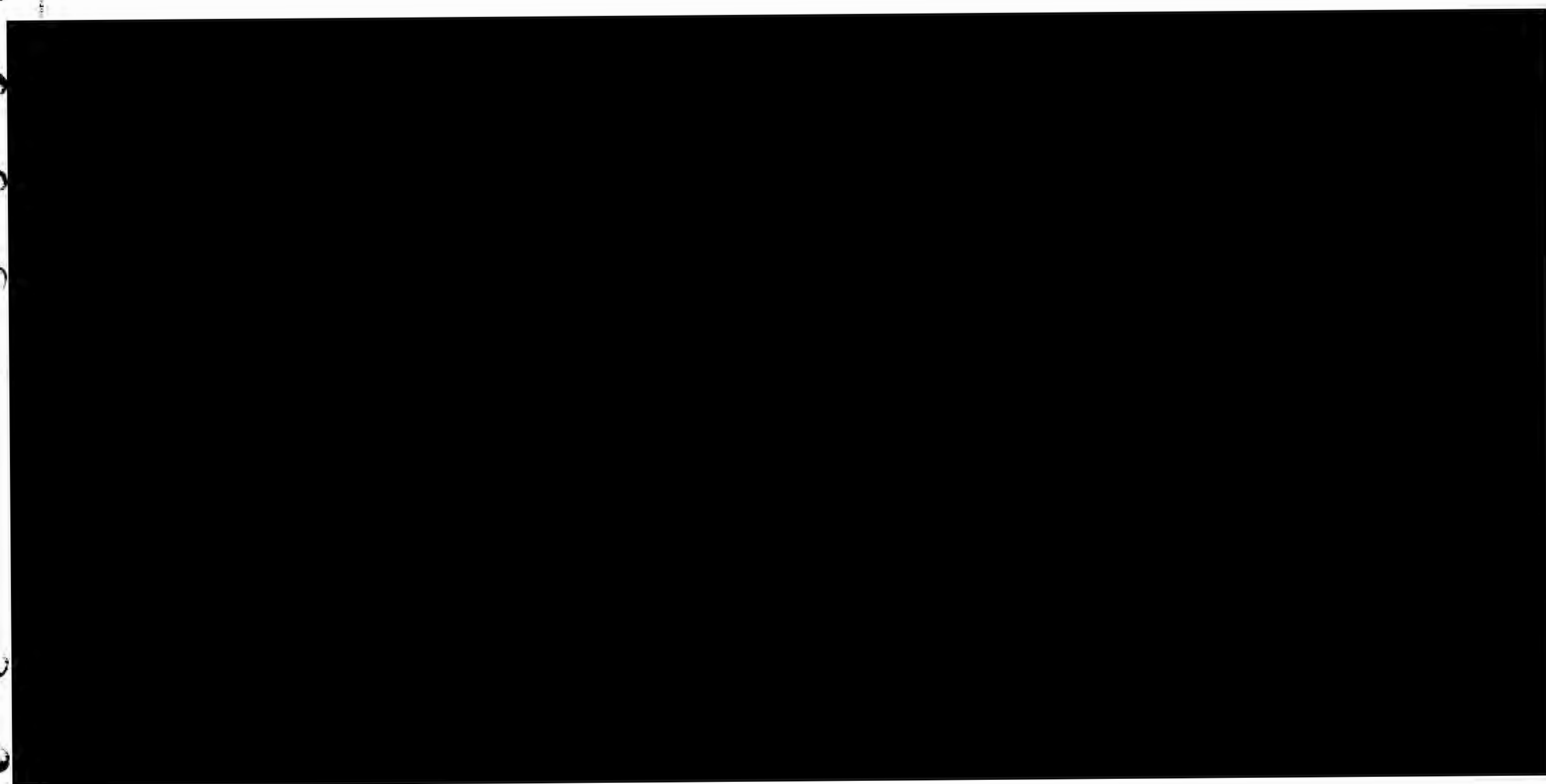
DATE: 10-28-94

S/ [redacted]

~~S/~~ [redacted]

BEHAVIORAL OBSERVATION FORM B

DATE	TIME	OBSERVATIONS AND/OR ACTIONS TAKEN



[redacted]

Deputy Barrett said that on October 27, 1994, he was assigned to the 9000 floor (EM shift) when he heard an "all call", via the public address system, announcing a deputy involved disturbance. Initially, he was uncertain where the disturbance was located but eventually discovered it was in module 4400. He entered the module and saw two deputies (David KLUTH and Gary SLOAN) and an inmate near the B/D row gates. The inmate was hobbled and the deputies were kneeling next to him. The altercation seemed to have concluded just prior to Deputy Barrett's arrival, because the two deputies were breathing rapidly. He determined that the incident was essentially stabilized so he stood by the main module door, for approximately one minute, and then returned to the 9000 floor to resume his work. He estimated that he was in the module for no more than two minutes.

Deputy Barrett said that he saw Deputy Cesar Romero (9000 floor deputy), in module 4400, standing by the booth door watching the incident. He also thought there were additional deputy personnel present, but he was unable to recall their identities.

In addition, Deputy Barrett said that he saw two inmates who were possible witnesses to the confrontation. The first inmate was standing in the "B" row showers and was described as a male white, 25 to 26. The second inmate was located in the laundry room, next to the main module door, and was described a male black, 6' to 6'1", wearing a blue jumpsuit. Both inmates were positioned to see the entire the incident. My investigation revealed the inmates were [redacted] and [redacted]

Deputy Barrett said that he did not participate in the incident, nor did he see any deputy punch, kick, or strike the hobbled inmate with any impact weapon.

Note: On January 31, 1995, Sergeant Ron Bell and I re-interviewed Deputy Barrett, at MCJ, to determine if he had any additional information regarding the incident. His statement was essentially the same as the first (tape available).

Deputy Kammer said that on October 27, 1994, early morning shift, he was assigned as the 9000 floor roving deputy. During the shift 5000 floor personnel announced, over the public address system, a disturbance in module 4400. Deputy Kammer, along with Deputy John Broad (#[redacted] and Deputy Cesar Romero (#[redacted] went to the module to provide assistance. They entered the module and saw three deputies (David Kluth #[redacted] #[redacted] and [redacted] #[redacted] struggling with a bloody, screaming inmate (later identified as [redacted] near the "B/D" row gates. As they entered, Deputy Sloan directed Deputy Romero to relieve him in the booth so he (SLOAN) could help subdue the inmate. Deputy Romero did so and watched the incident from the booth.

Deputy Kammer said that the inmate was laying face down and the deputies were attempting to control him. Deputies [redacted] and [redacted] were positioned on the inmate's left side trying to control the upper and lower torso areas, while Deputies Kluth and Sloan were positioned on the inmate's right side trying to control the upper and lower torso areas.

Deputy Kammer said that the inmate continued to resist the deputies by "squirming" around and attempting to get to his feet.

Deputies Kammer and Broad grabbed the inmate's feet and held them to the floor. They did not want the inmate to kick the other four deputies. The deputies got the inmate's hands behind his back and handcuffed him. Deputy Kammer could not remember which deputy actually handcuffed the inmate, but he thought it was possibly Deputy [redacted] Once the handcuffs were on the inmate, Deputies [redacted] and Sloan took Deputies Kammer and Broad's positions at the inmate's legs. Deputies Kammer and Broad stood and they immediately noticed that Deputy Broad's finger had been injured and was bleeding. Deputy Kammer and Deputy Broad determined the incident was over, so they returned to the 9000 floor to treat Deputy Broad's injury and resume their work. As the two deputies were leaving Deputy Richard Barrett [redacted], 9000 floor personnel, had arrived. Deputies Barrett and Romero subsequently returned to the 9000 floor.

Deputy Kammer said that he did not see the inmate being hobbled. However, he later learned from Deputy Barrett that the inmate's legs were restrained shortly after his (Kammer) departure.

Deputy Kammer said that he did not assault the inmate nor did he see any other deputy punch, kick, or strike the inmate with any impact weapon.

Deputy Kammer said that the inmate had suffered a head/facial injury. Additionally, he said that he saw another inmate standing in the "B" row showers during the incident. He noticed the inmate because Deputy Sloan had ordered him to face the shower wall. The inmate was described as a male white, NFD.

Deputy Broad said at on October 27, 1994, w. le assigned to the 9000 floor (EM shi.t), he heard a yell or a faint announcement of a disturbance. He ran to the 9000 floor hallway to determine the source of noise, but did not see or hear any commotion. However, he did notice Deputy Todd Kammer #[redacted] and Deputy Cesar Romero #[redacted] (9000 floor personnel) run down the escalator, so he followed them. They ran from the 5000 floor to 4000 floor searching for the disturbance. The 4000 floor booth deputy (Carol Howard) advised three deputies that the disturbance was in module 4400. They entered the module and found three to four deputies struggling with an inmate near the "B/D" row gates. The inmate was laying on his stomach with the deputies laying across his body. Two deputies were positioned on the inmate's right side while the other one or two were on his left side. Deputy Broad could not remember which deputy was located on the victim's right or left.

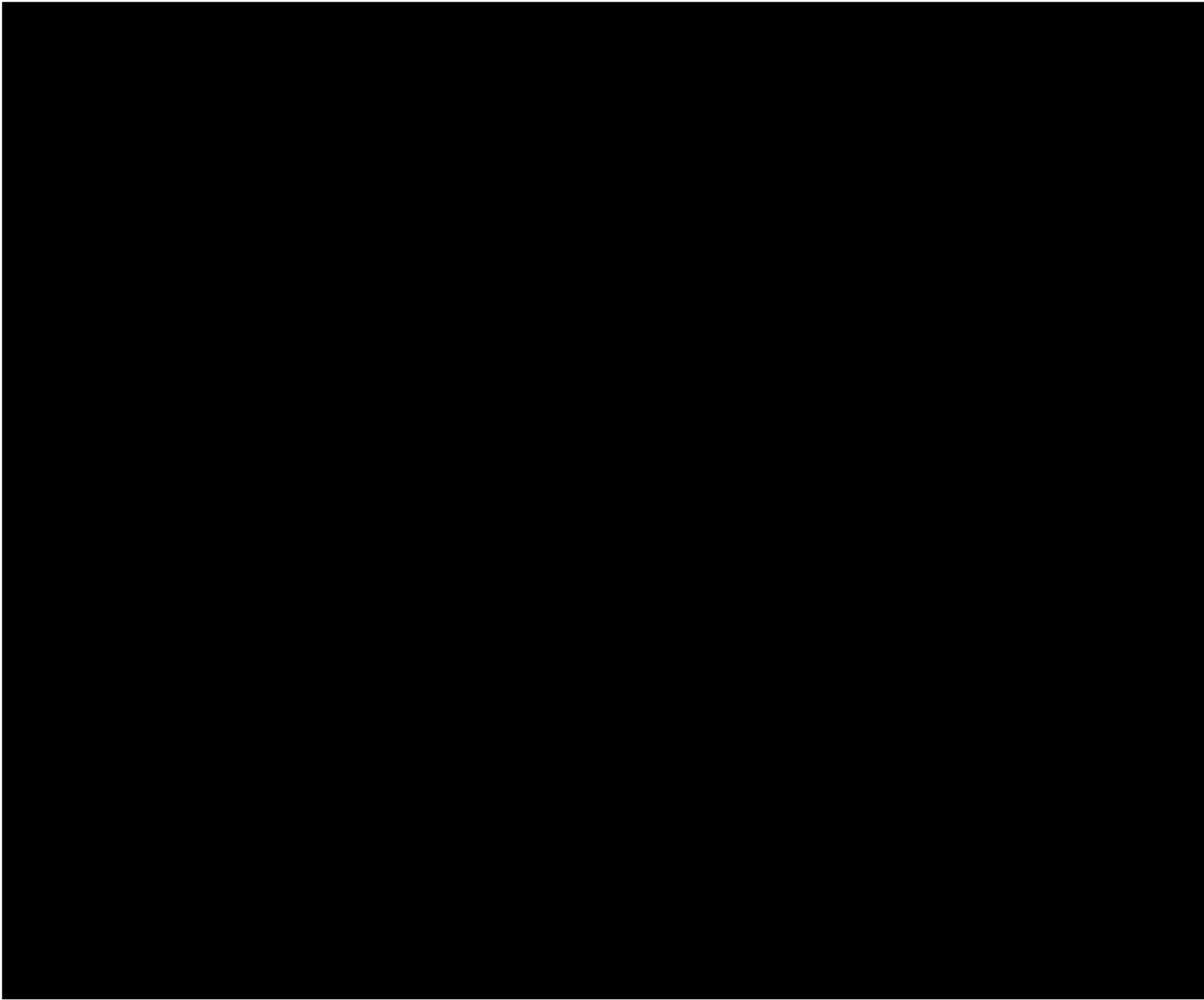
Note: The deputies were identified as David Kluth #[redacted] #[redacted] #[redacted] and Gary Sloan #[redacted] Deputy Broad was uncertain whether or not all four deputies were restraining the inmate when he arrived at the module.

Deputy Broad said that one of the four deputies repeatedly yelled at the inmate to place his hands behind his back. The inmate failed to comply and tried to roll on his side. The deputies got the inmate's left hand behind his back, but was unsuccessful with his right hand. The inmate had placed his right hand underneath his body. Deputy Broad and Deputy Kammer immediately grabbed the inmate's right and left lower legs, respectively, to prevent him from kicking the other deputies. They held onto the inmate's legs until the other deputies had restrained and handcuffed him. Deputy Broad did not know who had handcuffed the inmate. During the struggle Deputy Broad and Deputy Kammer had lifted and bent the inmate's legs to put them in a position to be hobbled. The handling deputies opted to merely handcuff the inmate at the time.

Deputy Broad eventually stood and noticed that his right index finger was bleeding. Once the incident was under control, Deputy Broad returned to the 9000 floor and treated his injury. He estimated that he was inside module 4400 for approximately one minute.

Deputy Broad said that he did not assault the inmate, nor did he see any other deputy punch, kick, or strike the inmate with any impact weapon. He did not see the deputy(s) place the hobble restraints on the inmate's legs. The application took place after he had left the module.

Deputy Broad said that Deputy Romero was positioned at or near the booth door during the entire incident. He never became involved in the actual altercation. Additionally, Deputy Broad said that he saw a male white inmate standing in the "B" row shower. My investigation revealed that the inmate was [redacted] Bkg. #[redacted].



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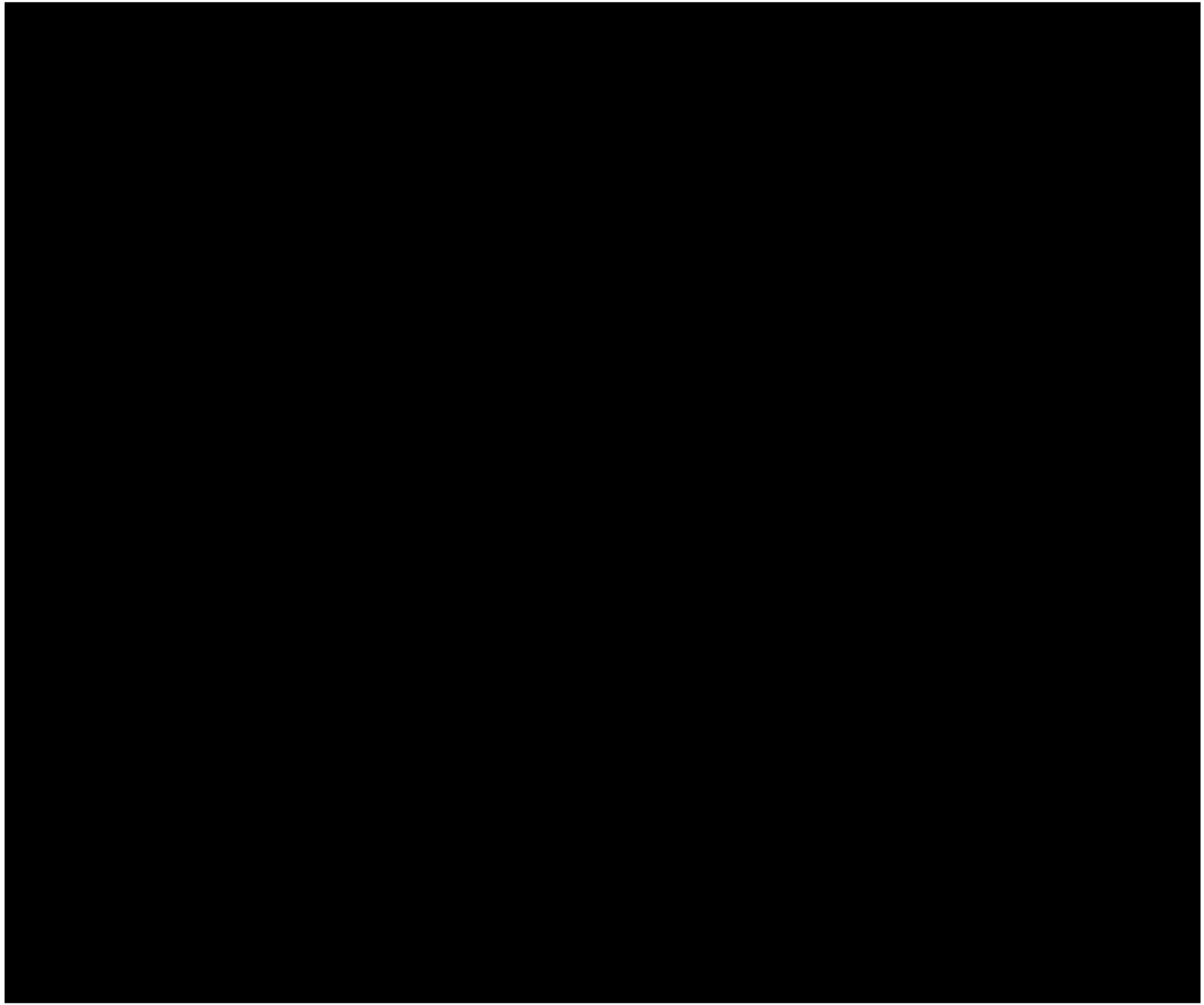

C

[redacted]

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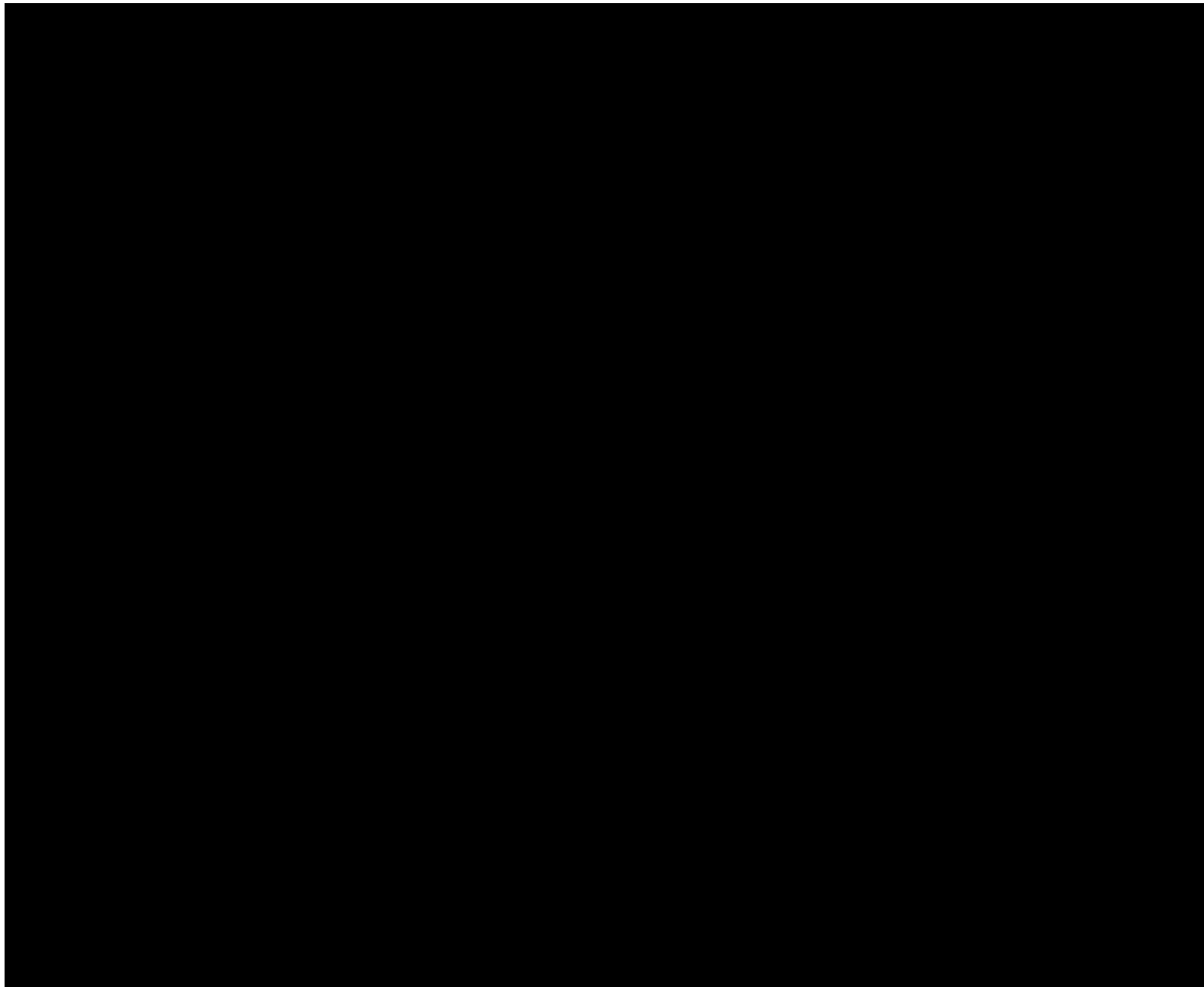

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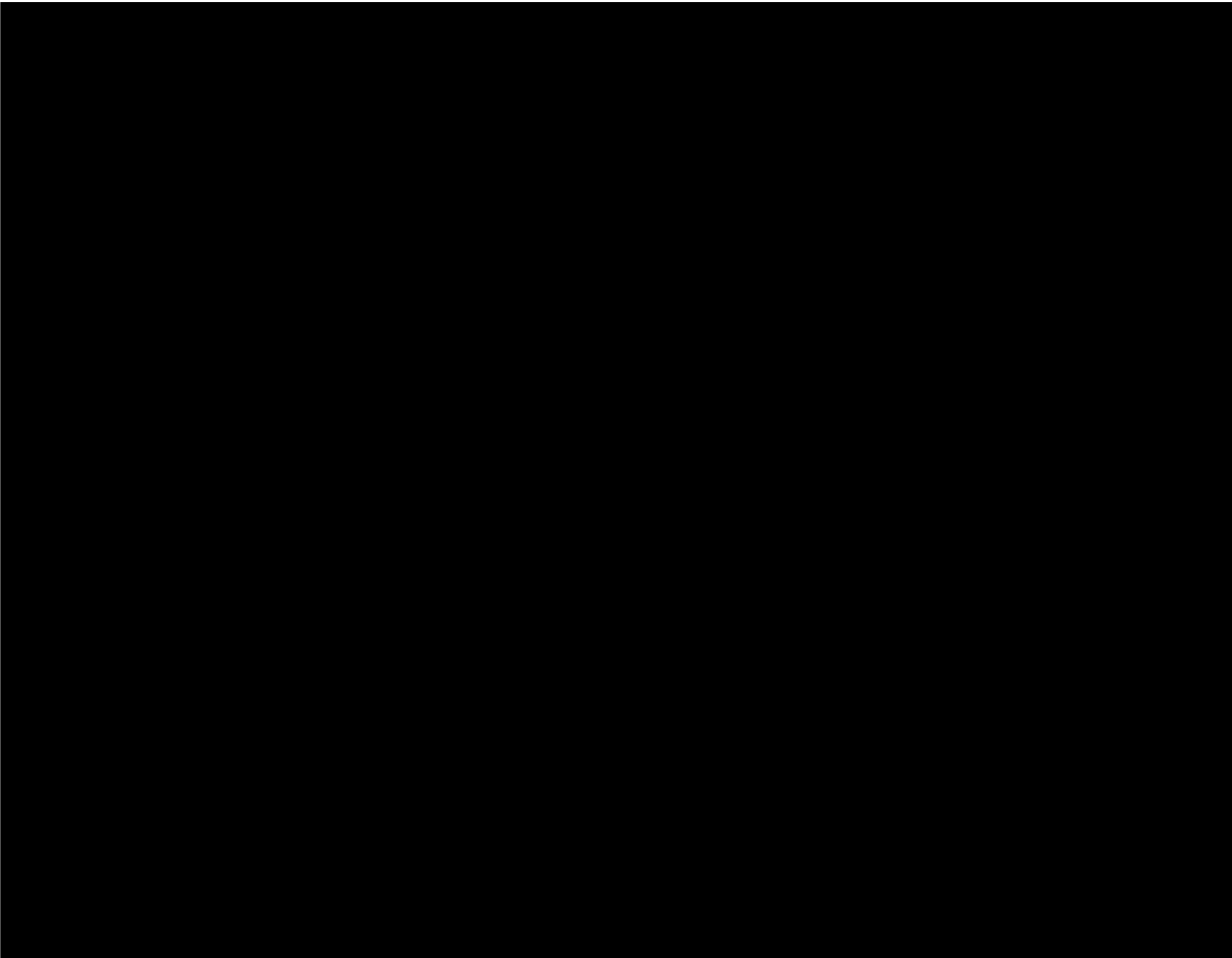

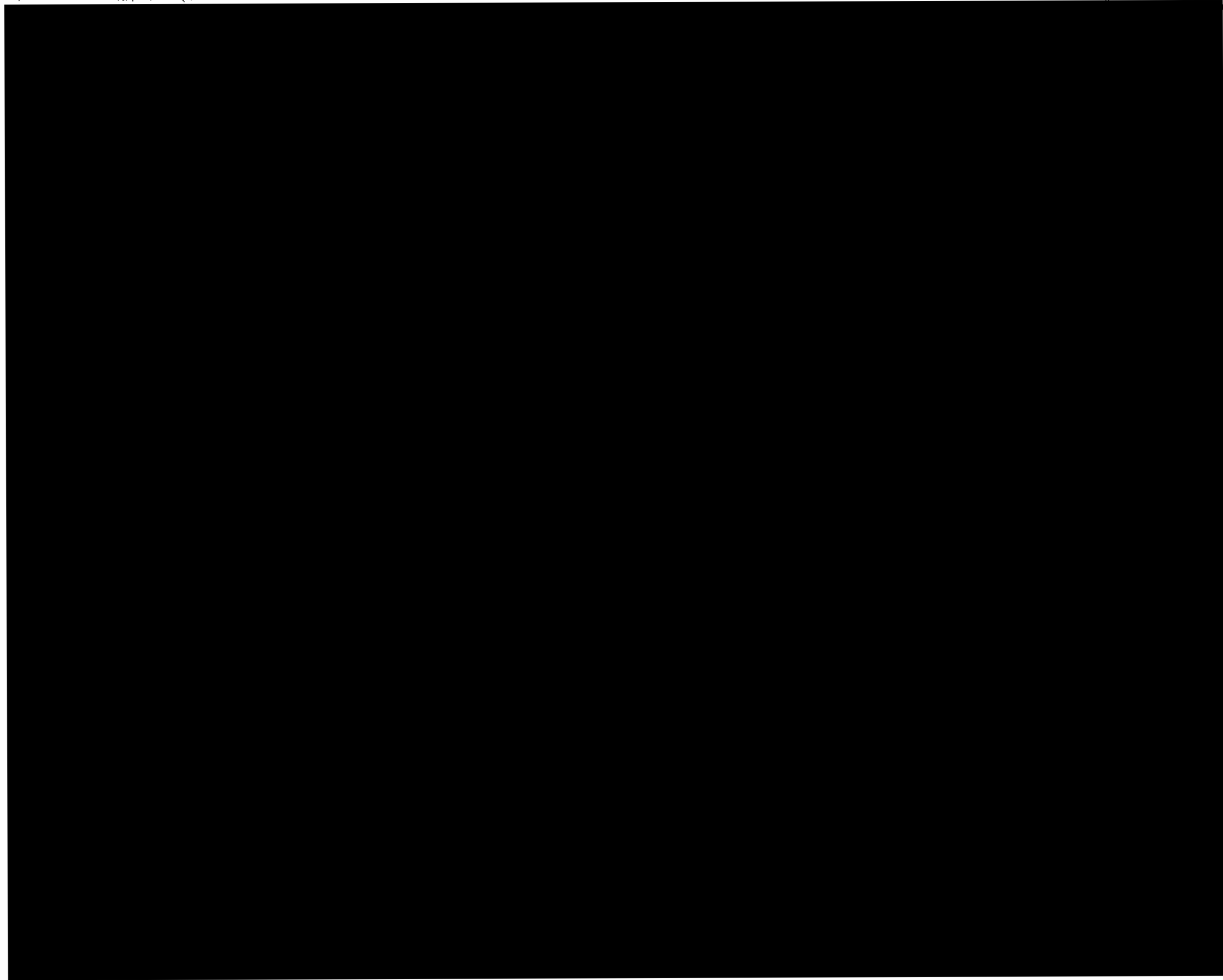

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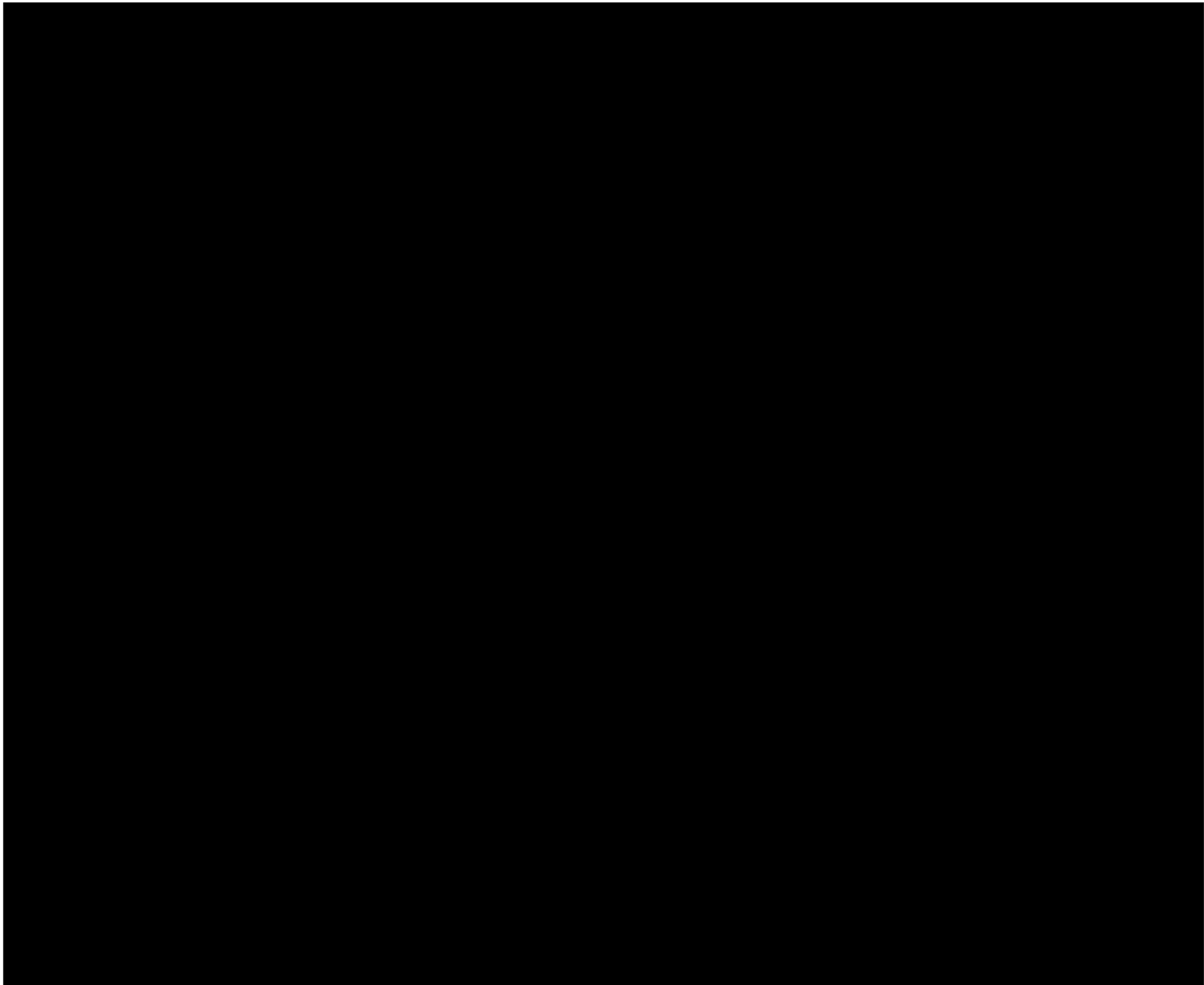

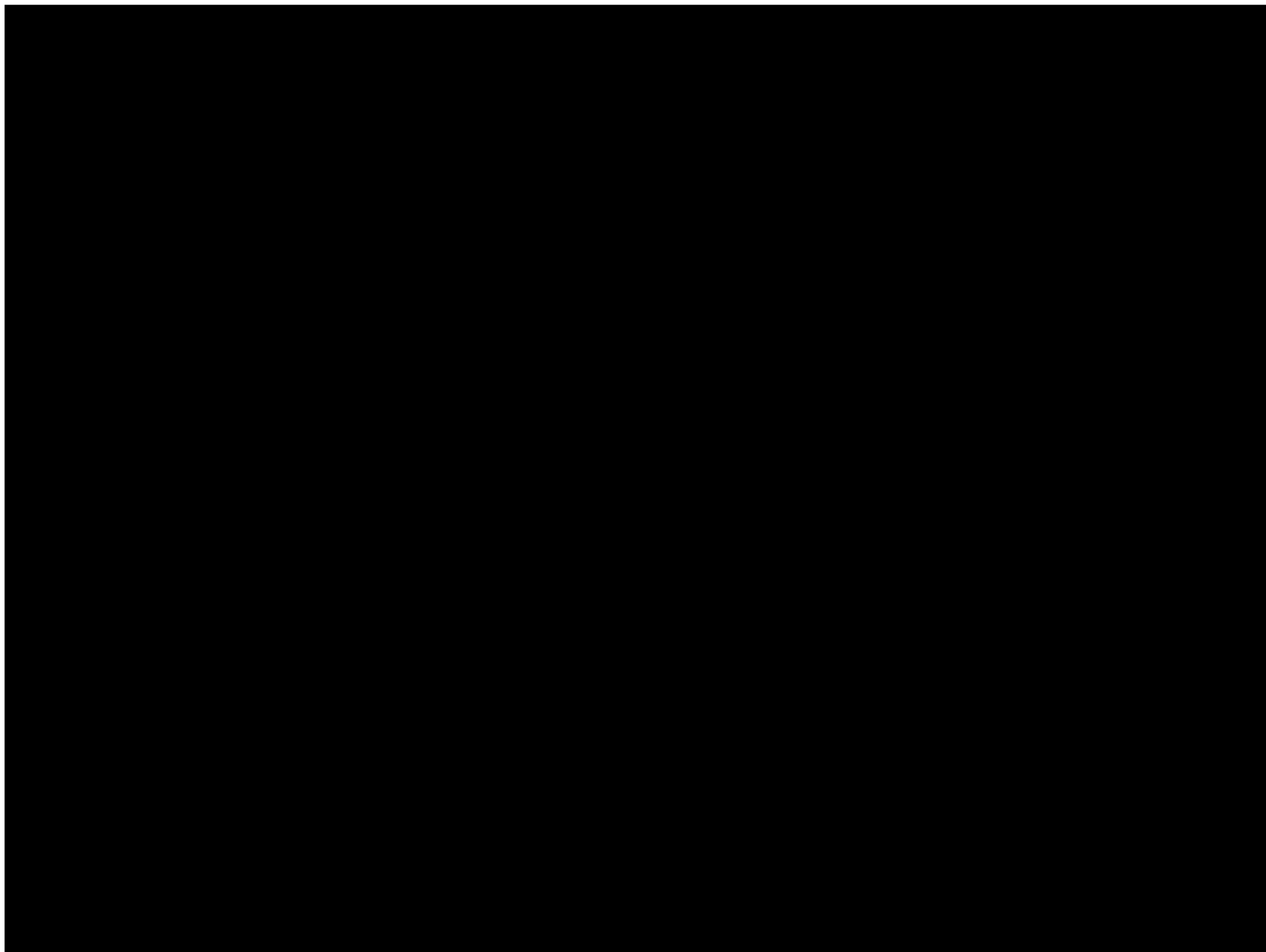

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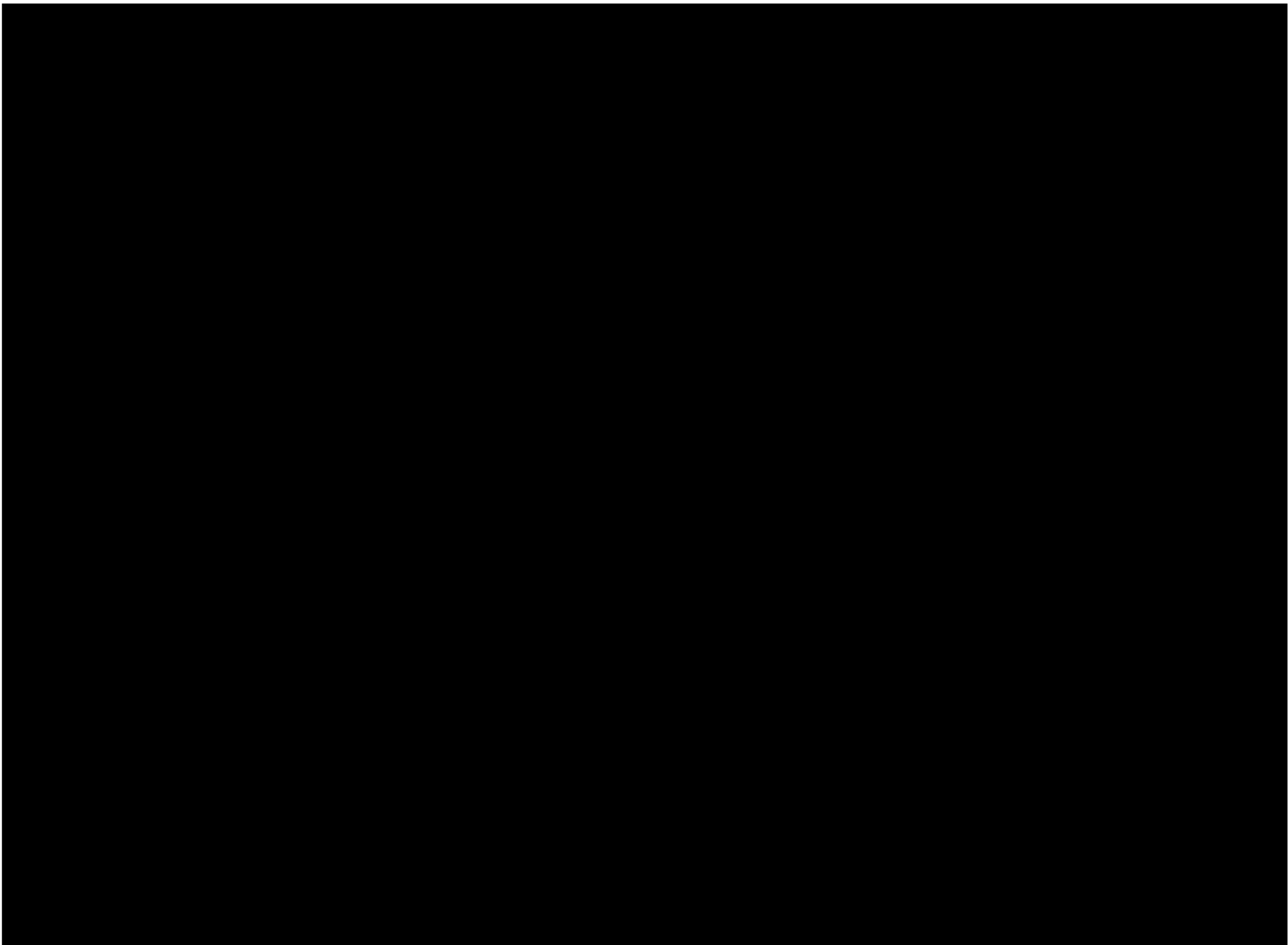

Training Report

TRAINING BUREAU
SHOOTING/FORCE INCIDENT
TRAINING ANALYSIS

IAB File # 008383 Station File # 494-03357-5100-058

Date: October 27, 1994 Day: Thursday Time: 0030 Hours

Location: Men's Central Jail/Module 4400 Sallyport Area

Los Angeles Station: Men's Central Jail

Shooting ____ Force XXX On Duty XXX Off Duty ____

Deputy(s) Involved:

NAME: KLUTH, DAVID EMP#[redacted] UNIT MCJ
NAME:[redacted] EMP#[redacted] UNIT MCJ
NAME:[redacted] EMP#[redacted] UNIT MCJ
NAME: SLOAN, GARY EMP#[redacted] UNIT MCJ
NAME: ROMERO, CEASER EMP#[redacted] UNIT MCJ
NAME: BARRETT, RICHARD EMP#[redacted] UNIT MCJ
NAME: KAMMER, TODD EMP#[redacted] UNIT MCJ
NAME: BROAD, JOHN EMP#[redacted] UNIT MCJ

Sergeant(s) Involved:

NAME: MOSLEY, VAN EMP#[redacted] UNIT MCJ

SOURCE CALL ____ OBS ____ DETAIL XXX

Type of Incident (211N, 415F, etc.) PHYSICAL ALTERCATION

Protective Vests Worn: Yes ____ No XXX

Uniform XXX Plain Clothes ____

NARRATIVE ATTACHED

Prepared by: SERGEANT DALE SCHIRMAN
CUSTODY TRAINING UNIT

I. TRAINING ANALYSIS INTENT

The evaluation listed below is intended to be a training analysis. The document is not intended to form any conclusions regarding any aspects of the incident.

II. TRAINING ISSUES

INCIDENT:

This incident occurred after inmate [redacted] (a mental observation patient) refused to return to his cell. The inmate then refused to comply with verbal commands to stand in front of the row gate facing it. Deputy Kluth approached the inmate by himself and put his hand on the inmates shoulder in an attempt to turn him. The inmate responded by suddenly applying a headlock to Deputy Kluth. During the struggle, Deputy Kluth took him to the floor and was assisted by other personnel in gaining physical control of inmate [redacted] Involved personnel stated they used physical restraint techniques and add no impact weapons or kicking was administered.

The medical examination at L.C.M.C. revealed that inmate [redacted] had a crushed testicle apparently from a blunt force trauma during the force incident.

USE OF FORCE:

The analysis of this use of force incident addresses several training issues. They are tactical communications, control and defensive tactics and the proper reporting of force. These training issues were taught by the Custody Division Training Unit in Tactical Communications and Defensive Tactics classes taught prior to the creation of the Force Training Unit. The Force Training Unit currently teaches all defensive tactics classes and taught most of the personnel involved in this incident.

COMMUNICATIONS:

In Tactical Communications classes students are taught to attempt to defuse situations that may become violent by talking to the subject. This tactic may also afford the deputy time to plan and assess his options. Deputies are taught in defensive tactics to communicate with partners, wait for back up and to consider retreating if a situation appears to be escalating prior to sufficient deputies being present.

CONTROL

Various control techniques were taught in defensive tactics and force training classes that could be used to control an individual who represents a potential threat. These techniques include basic wrist locks and arm locks, handcuffing and other restraint devices.

DEFENSIVE TECHNIQUES

Both defensive tactics and force training classes emphasize utilizing verbal requests and commands prior to any hands on physical contact. All deputies that attend these classes were instructed on the importance of starting with effective verbal skills before any physical contact. Custody personnel are taught to consider handcuffing inmates who do not comply with instructions to prevent any further escalation of the situation. Unit level policy at MCJ requires that the inmate be immediately handcuffed in circumstances when the inmate may become violent since the inmate would immediately receive a disciplinary interview by the floor senior deputy.

Once a deputy has encountered an attack, there are a variety of defenses taught to defend against that attack. These defenses include deflecting the attack, striking back to resist the attack, controlling the subject, creating distance and retreat.

Deflecting an attack could be accomplished by striking or deflecting the actual weapon and pushing or punching the attacker away. This method could create distance allowing the deputy to regroup or retreat. The instruction on striking back to resist an attack includes proper striking areas. They are taught that striking the palms of the hand on the face could be a way to create distance and create a diversion when the attacker is within arms length. During an assault, deputies are taught to use any reasonable object to defend themselves, in order to prevent injury to themselves. Striking back could also include the use of O.C. spray. Students are taught to use this as a defense to incapacitate a violent individual.

REPORTING OF FORCE

Defensive Tactics, Force Training and Custody Division Recurrent Briefings all stress to accurately report all details of what force was utilized by the involved deputies. Force Training classes stress the importance of a detailed narration of the force used verbally to the employee's sergeant, and including a detailed description of all reports of the force used, control techniques and weapons utilized during the incident are stressed to all students.

III. CURRICULUM RECOMMENDATIONS

A review of this incident indicates that the training received by the involved deputies was pertinent and addressed the situation that confronted them. The Department currently teaches Force Training in recruit training and in-service training sessions. Force issues and the reporting of force are reviewed in recurrent briefings. Custody Divisions Training Unit currently provides a 40-Hour Custody Orientation class for all newly assigned custody sergeants and lieutenants. During the past year, a mentor program where experienced supervisors review common supervisory duties and responsibilities was added to assist newly assigned supervisors. Accountability of supervisors is stressed particularly in force incidents to properly investigate and closely examine all force reports for complete and detailed reporting.

LOS ANGELES COUNTY SHERIFF'S DEPARTMENT

SUBJECT STATEMENTS (LAST NAMES A - L)

INTERNAL AFFAIRS BUREAU INVESTIGATIVE REPORT

I.A.B. 008383
(Book 2 of 8)

CONFIDENTIAL

DEP. RICHARD BARRETT
I.C.I.B. INTERVIEW 12-6-94

WITNESS INTERVIEW

CASE NUMBER 494-00023-2300-444

RICHARD BARRETT

Hamilton
Q. Okay, today's date is December 6, 1994. It's 2356 hours. We're here at Men's Central Jail, getting ready to talk to Deputy Richard Barrett, employee [redacted]. He's assigned here at CJ, MCJ, excuse me. We're gonna be discussing an incident that occurred here at Men's Central Jail October 27, 1994, in Module 4400, on early morning shift at approximately 0030 hours. I see IAB File Number is 494-00023-2300 444. Present in the room is Sergeant Ron Bell, myself, Sergeant Eric Hamilton from ICIB. Deputy Barrett, were you working on October 27th of this year?

Barrett
A. Yeah.

Hamilton
Q. Where were you assigned?

Barrett
A. 9000 Movement Control.

Hamilton
Q. Okay. Were you there at approximately 0030 hours?

Barrett
A. At work? Yes.

Hamilton
Q. Okay. Did you respond down to Module 4400?

Barrett
A. Yes, I did.

Hamilton
Q. Okay. What time did you respond and why did you respond?

Barrett
A. The time, I have no idea what time of the evening it was and the reason for it, my response was that an all call out over the PA system for a 415 deputy involved incident down in 4000?

Hamilton
Q. Okay. What happened once you heard that call?

Barrett
A. We, see, I left the 9000 floor, at first the call was, was not clear, most of, most, see I ran to the 5000 floor at which nothing was going on and started to walk back towards 9000 and the call came out again.

Hamilton
Q. Okay. Where did they come out from?

Barrett
A. There was an all call, I believe.

Hamilton
Q. Okay. So...

Barrett
A. So, I went back down to 4000...

Hamilton
Q. Okay.

Barrett
A. ...and the door was shut. I went in, as a matter of fact, I believe I keyed, I had to key the door open...to get in.

Hamilton
Q. Okay, when you said...

Barrett
A. I believe...

Hamilton
Q. ...4000, do you mean...

Barrett
A. I meant to 4400...

Hamilton
Q. Okay.

Barrett
A. ...Module 4400. And, I keyed the door open, went inside. There was an inmate down on the ground that lo-, that had recently been hobbled.

Hamilton
Q. How do you know that?

Barrett
A. I've seen it. I seen the hobble on him.

Hamilton
Q. Okay. When you say recently, you mean...

Barrett
A. He was, everybody was just, the whole incident appeared to be coming to an end. It appeared...

Bell
Q. When you first enter the Module, what do you see?

Barrett
A. I see the deputies on the ground and the hobble in place.

Bell
Q. Okay, and they're still down with the inmate?

Barrett
A. They're, well, they're down, but they're starting to get up.

Bell
Q. Okay.

Barrett
A. And, there's a lot of yelling, there's a lot of screaming from the other inmates down on the rows. I went back, held the door open for, oh, I don't know, momentarily. I don't know how long it

was and went in back. The deputies were up and I left. That was basically...

Bell

Q. Who were the deputies that are there?

Barrett

A. The only, at the time, at that particular time, the two that I did recognize was Kluth, Deputy Kluth and Deputy Sloan.

Bell

Q. Okay.

Barrett

A. Those were the two deputies that comes...

Bell

Q. That are out with the inmate?

Barrett

A. That had hobbled. The two deputies I could tell who had hobbled the, the inmate.

Bell

Q. They're the two that are just getting up from where the inmate is?

Barrett

A. Right.

Hamilton

Q. Okay. When you said that you entered the Module and you saw the deputies down with the inmate, what do you mean? Where were they positioned and how were they positioned?

Barrett

A. They were in the position as if, just hobbling somebody, you know. I believe...

Hamilton

Q. Are they on the sides or front, back?

Barrett

A. I wanna say, if I recall right, I wanna say the stom-, the inmate was on his stomach and I believe, I can't remember where Sloan, Deputy Sloan and Kluth are. Those are just the two faces I seen.

Hamilton

Q. Okay.

Barrett

A. Where their positions was, I don't know.

Hamilton

Q. Okay.

Barrett

A. But it is...

Hamilton

Q. Who was in the booth?

Barrett

A. (Sigh) Let me recall. I don't know right off hand.

Hamilton

Q. Do you wanna look at the, I'll tell you what, I can show you a copy of the in-service was that night and maybe you could recognize through looking at the list of the people that were working. Maybe you could recall who was in the booth, who was in the module?

Barrett

A. Deputy Kluth was working in the module.

Hamilton

Q. Right.

Barrett

A. Is that what you're saying?

Hamilton

Q. No. I'm just saying that maybe you could recognize who else was there by seeing the names of the in-service. Maybe it would...

Barrett
A. I know Deputy Kluth and Sloan, and, I'm trying to figure out who was in the booth at that time.

Hamilton
Q. Was there anybody else in the sally port area?

Barrett
A. There was a, somebody responding, I believe, it could have been Deputy Romero could have been there.

Hamilton
Q. Okay, and where is Romero from?

Barrett
A. He's from 9000.

Hamilton
Q. Okay.

Barrett
A. Because he went down.

Hamilton
Q. Anybody else? Did anybody respond with you down there?

Barrett
A. No, I was, I was solo. I was pretty much solo, I should say that. I've seen other deputies, like I said, I stopped the 5000 because I misinterpreted the floor.

Hamilton
Q. Okay.

Barrett
A. And, I've been, I got a, as a matter of fact, I got a late start to the whole thing anyway because I was in, tied up upstairs.

Hamilton
Q. You said when you went into the dorm, where was the inmate positioned?

Barrett

A. He was positioned, I believe Abel and Baker rows on that side, so it would have been in front of the bottom row. The bottom row I believe is Abel row, I believe.

Bell

Q. Okay. As you're going through the door, where is the inmate in located (inaudible) to you?

Barrett

A. The inmate is off to, okay. He's off, you can't even, as you walk through the door, you couldn't even see him. It was off to the right in the corner...

Bell

Q. Okay.

Barrett

A. ...by the shower area in front of Abel-Baker Row, which would be, as you walk into the door, off to your right.

Bell

Q. The shower was on the sally port row?

Barrett

A. Well, it's not. No, not really. You could see into the shower but you can't, you can't enter the shower.

Bell

Q. You'd have to go down the row.

Barrett

A. You have to go down the row.

Bell

Q. Okay.

Barrett

A. And enter the shower area from there. You can't enter it from the sally port.

Bell

Q. Okay.

Hamilton
Q. Okay. Did you see anything else when you entered? The guy that you say was screaming or?

Barrett
A. Well, there was a lot of commotion in the module itself, you know. You know, inmates heard what was, you know, heard the disturbance so they responded.

Hamilton
Q. What about this inmate, the one that was on the floor?

Barrett
A. The one that was in the hobble position?

Hamilton
Q. Right.

Barrett
A. Yeah, he was, he was making noise.

Hamilton
Q. What was he saying or doing?

Barrett
A. Nothing, nothing that strikes me as, out of the ordinary. He's just, was loud and boisterous. I don't know exactly what his words were or why he was yelling.

Hamilton
Q. Was he moving around on the floor, anything or? Was he...

Barrett
A. Yeah, he was, he was, he was still a little antsy from what I could see.

Hamilton
Q. What do you mean? What was he doing?

Barrett
A. Moving around. Wiggling. Still aggressive.

Bell

Q. Fighting the hobbles?

Barrett

A. Oh, yeah. Well, basically...

Bell

Q. He's trying to get it loose?

Barrett

A. Yeah.

Hamilton

Q. Did he appear to be in any pain?

Barrett

A. No. Not from what I could see.

Hamilton

Q. What do you mean by that?

Barrett

A. He just didn't appeared to be in any pain. I don't know what...

Hamilton

Q. I mean was he screaming or (inaudible)?

Barrett

A. The scream, the noise that he was making didn't appear to be noises from pain. It appeared to be from anger.

Hamilton

Q. Okay. Did you see any inmates, trusties, any other civilians that happened to be?

Barrett

A. As a matter of fact, there was one, when I first walked in there was a trusty, immediately to the left as you walk in the door, there's a little room right there...

Hamilton

Q. Okay.

Barrett
A. ...and there was a trusty in there and I told him to sit down.

Hamilton
Q. Okay. What did he look like?

Barrett
A. He was a black guy. Pretty husky. Maybe 6 foot, 6'1", I don't know.

Hamilton
Q. Mustache, beard, anything? Glasses?

Barrett
A. I don't recall any glasses. I don't recall any beard.

Hamilton
Q. Okay.

Barrett
A. I don't recall, I don't recall any special features that stick out.

Hamilton
Q. How did you know he was a trusty?

Barrett
A. I didn't. I have no idea if he was a trusty or an inmate. He could have, I don't know what he was.

Hamilton
Q. (Inaudible) assign there?

Barrett
A. All I know is when I came in, he was right in the doorway. Not the actual entry way to the module but, there's a little room off to the left where they keep linen and towels and what have you in there.

Hamilton
Q. The storage room or something?

Barrett

A. Right. He was in there, standing in that hallway.

Hamilton

Q. Okay.

Barrett

A. I don't know who he was. I don't know if he was an inmate or, I would assume, I'm assuming that he was a trusty. I recall he was in blues. So, in that area, I don't know if they wear a different colored jumpsuits or not.

Hamilton

Q. Okay. Did you notice anyone else? Anyone on the phone or any other inmates?

Barrett

A. No.

Hamilton

Q. How about in the shower or the day room?

Barrett

A. Yeah, there was a, there was one inmate in the shower I recall.

Hamilton

Q. The upper shower?

Barrett

A. Lower. You can't, I don't think you can see from, the upper showers there but I don't think you could see, is there an upper shower? I'm not too familiar with 4000 a whole lot.

Hamilton

Q. Where was this one?

Barrett

A. This one, this one in particular was in the shower.

Hamilton

Q. Was it the lower shower or?

Barrett
A. He was in, it was the lower shower.

Hamilton
Q. Okay. To the right or left?

Barrett
A. To the right.

Hamilton
Q. Okay. Which one?

Barrett
A. The one that I've described earlier.

Hamilton
Q. Okay. I think it's Baker row.

Barrett
A. The lower one. Whatever the lower row is. Okay, Baker row.

Hamilton
Q. What did he look like?

Barrett
A. As I recall right, he was a white guy, a white inmate.

Hamilton
Q. Young, old?

Barrett
A. Twenty-five, twenty-six perhaps.

Hamilton
Q. Long, short hair?

Barrett
A. I can't remember.

Hamilton
Q. How did you notice him?

Barrett
A. He was just, he was just, I just happened to see him out of the background. He was a, when I see him, he was all the way, farthest against the wall, towards the next module.

Hamilton
Q. Okay.

Barrett
A. And...

Hamilton
Q. So, he's actually...

Barrett
A. ...and he was sitting down.

Hamilton
Q. Okay. Was he closer to the cells, you know what I mean? Going back towards the row.

Barrett
A. No.

Hamilton
Q. Or he was closer to...

Barrett
A. He was close...

Hamilton
Q. ...the front door or where the sally port area is located

Barrett
A. Right. That's where he was at.

Hamilton
Q. Could he have seen what happened?

Barrett
A. I don't see why not. I would think he would have been able to see it...

Hamilton
Q. Was he a trusty or?

Barrett
A. ...if he was there the whole time?

Hamilton
Q. Okay. Was he a trusty or?

Barrett
A. I don't know.

Hamilton
Q. Do you notice his...

Barrett
A. I don't know if he was a trusty or not. Being in the shower area, I doubt if he was a trusty. I don't think that's, it's not common practice to be in that area as a trusty.

Hamilton
Q. I understand that. I guess it's pill call module and they wear orange sometimes. Do you know if they wear blue or orange top or whatever?

Barrett
A. To tell you the truth sergeant, I'm don't, I'm not familiar what kind of operation or what specific type of inmates are housed in that area.

Hamilton
Q. Okay.

Bell
Q. What did this inmate have on?

Barrett
A. I do not know. I couldn't tell you. It doesn't come out. I don't know if he was in blues. I don't know what color of jumpsuit he had on.

Bell
Q. Was he in a towel?

Barrett
A. A towel? I don't think so. They commonly use the shower area sometimes for, for people who are just coming into the module and they are not yet housed. They could be fish, they needed to be searched, what have you and that's a good place to put them because they can't get their hands on nothing in there.

Hamilton
Q. Anyone else?

Barrett
A. That's one reason why. I'm sure there's hundred other reasons why they stick someone in the shower but that's one specific reason why they would put them in there.

Hamilton
Q. You notice anyone else?

Barrett
A. As far as inmates, no.

Hamilton
Q. Okay. How did the deputies appear?

Barrett
A. Tired. Very tired. Sweaty.

Hamilton
Q. Or just the two that you've mentioned?

Barrett
A. Well, the whole thing looked like it took, the way they were, looked like they had a workout. They looked, I don't know how long the whole thing took but apparently the guy, from what I could see, put up a pretty good fight.

Hamilton
Q. Okay. Deputies appear to be upset?

Barrett
A. Nobody was, there was, no not really. It was just, they were breathing hard and sweaty but they didn't appear to be, you know, upset.

Bell
Q. So, you said Kluth and Sloan were getting up from being down on the floor with the inmate?

Barrett
A. Right.

Bell
Q. They weren't standing over him when you walked in, they were both...

Barrett
A. Uh-huh.

Bell
Q. ...on their knees and getting up?

Barrett
A. That's correct.

Bell
Q. Okay. How about any other deputies? Were they also down there or?

Barrett
A. No. The only, the only, the two that I seen getting up from what appeared to be the hobble position was deputies, it looked like Deputy Sloan and Deputy Kluth were the ones that must have done, did the hobbling.

Hamilton
Q. Okay. Anybody else there? Any senior, sergeant?

Barrett
A. I've seen no senior or no sergeant.

Hamilton
Q. Did you see the deputies do anything inappropriate to the inmate? Did you see them punch him, kick him, call him out, his name or anything...

Barrett
A. No, sir.

Hamilton
Q. ...that you could remember?

Barrett
A. No, I did not.

Hamilton
Q. How long were you down there, in minutes?

Barrett
A. In minutes? I'd say, two.

Hamilton
Q. Okay. Did you assist the deputies with anything?

Barrett
A. No, I did not.

Hamilton
Q. Did they ask you to?

Barrett
A. No.

Hamilton
Q. Anyone else that may have been down there that you noticed responding when you were leaving?

Barrett
A. When I was leaving, no, uh-uh.

Hamilton
Q. Okay.

Barrett
A. The only person I seen was coming, when I left was the, the booth person on 4000.

Hamilton
Q. Who is that?

Barrett
A. I believe it was, I believe the booth person that night was

Kassinger, I believe. Female Kassinger. There's two Kassingers. There's a male and a female.

Hamilton

Q. She was leaving?

Barrett

A. No. She was the 4000 booth person, I believe, if my memory recalls right.

Hamilton

Q. How long did it take you to get from 9000 to, down to 44[00] once you heard the call?

Barrett

A. That's not that far. That's not that far of a run but like I said, I stopped off at 5000 first because I misinterpreted the call.

Hamilton

Q. And you don't remember the...

Barrett

A. And then, actually I was walking back up to 9000 and then it came over the PA again.

Hamilton

Q. You don't remember any 9000 personnel being there?

Barrett

A. I know Deputy Romero went down there.

Hamilton

Q. What did he do?

Barrett

A. I don't exactly know what he did to tell you the truth. He may have been, he might have temporarily held the door to the 44 door, the actual module door.

Hamilton

Q. Was he there before...

Barrett
A. I don't know if he held it open the whole time.

Hamilton
Q. Was he there before you?

Barrett
A. Yes.

Hamilton
Q. Did you see him go inside once you got there?

Barrett
A. Inside the...

Hamilton
Q. Sally port area? Or did he...

Barrett
A. Do you mean where the controls are at?

Hamilton
Q. Did he actually go where the inmates were and the deputies or did he stand...

Barrett
A. No. Not that I know of.

Hamilton
Q. So...

Barrett
A. I didn't see him over there. Not with the deputies and where the inmate was lying?

Hamilton
Q. Right.

Barrett
A. No.

Hamilton
Q. Do you know where he went?

Barrett

A. I seen him near the control booth door.

Hamilton

Q. All right. Can you think of anyone else that may have been there?

Barrett

A. No. That's as far as I can recall.

Hamilton

Q. Anything else that you can add?

Barrett

A. No. It was, it was an incident that happened real quick. By the time I got there, the guy was pretty much hobbled. He was, it was over. It was over. There were some tired deputies and they looked wore out for one inmate.

Hamilton

Q. Did the deputies ever tell you what happened?

Barrett

A. Later on I found out what occurred but.

Hamilton

Q. When you say later on, what do you mean?

Barrett

A. You know, like talk, you know, how news travel...

Hamilton

Q. A day later, a week later?

Barrett

A. No. That night. That night.

Hamilton

Q. What'd you hear?

Barrett

A. I heard that the, that Kluth had been working. I don't know how, how it all started but he was attacked from behind or grabbed

from behind, choked, and how he got the call out, I don't know. But that's how, that's my understanding of how it all started.

Hamilton

Q. Okay. Did you hear of any deputies beating this guy or kicking him or doing?

Barrett

A. No.

Hamilton

Q. Okay. You have anything else?

Barrett

A. No, sir.

Hamilton

Q. You have anything?

Bell

Q. Nope.

Hamilton

Q. Okay, we're gonna end this interview at 0015 hours.

END OF INTERVIEW

DEP. RICHARD BARRETT
I.C.I.B. INTERVIEW 1-31-95

WITNESS INTERVIEW

CASE NUMBER 494-00023-2300-444

RICHARD BARRETT

Hamilton

Q. Okay, today's date is January 31, 1995. We're here at Men's Central Jail getting ready to interview Deputy Richard Barrett. We're gonna be talking about a incident that occurred on October 27, 1994, here at Men's Central Jail, in Module 4400 on the early morning shift. Let's see, it's now approximately 0047 hours. Present in the room is Sergeant Ron Bell, and myself, Sergeant Eric Hamilton. We're gonna be conducting this investigation under ICIB file number 494-00023-2300-444. Deputy Barrett, were you working on October 27, 1994, on the early morning shift here at Men's Central Jail?

Barrett

A. Yes, I was.

Hamilton

Q. Okay, Where were you assigned?

Barrett

A. Nine thousand movement control.

Hamilton

Q. Okay, did you have a chance to respond down to Module 4400 in regards to a disturbance?

Barrett

A. Yes, I did.

Hamilton

Q. Can you tell me what you did?

Barrett

A. I was working at my desk, and I heard a all call come up over the P.A. system that were was a, a disturbance which sounded like 5000 to me, come out. I left the booth, ran down the stairs, to the 5000 floor, stopped in front of their booth, looked around, and

saw no activity at all. Started back up towards the 9000 floor once again, I got partly up the escalator and I was, it was brought to my attention that the disturbance was on 4000. I went, I went down to 4000, and into the 4400 Module, keyed the door open, and as soon as I went in the door, I, off to my left, I seen a trusty off to the, I assume he was a trusty, standing in the doorway of the laundry room area. I told him to go to the back of the laundry room and turn around, which he, which he did. I looked over to, I looked, what I, what I saw inside the module when I walked in was a subdued inmate on his stomach, handcuffed. I believe he was hog tied. Also, off to the right beside of the shower I seen an inmate to the back area of the shower.

Hamilton
Q. Okay, and which shower was that?

Barrett
A. The lower, lower Baker row shower.

Hamilton
Q. Okay.

Barrett
A. I believe that's what they call it, the lower, the lower shower area on Baker row. The incident was already, or the deputies had already subdued the guy. He was a, a black inmate, and...

Bell
Q. By subdued, what do you mean?

Barrett
A. He was, he was, he was already, he was already under control, he was under control by the deputies.

Bell
Q. Was he handcuffed?

Barrett
A. Yes, he was.

Hamilton
Q. Was he hobbled?

Barrett

A. I wanna say he was. I believe, I, I look back at it, and I think he was hobbled, I can't positively say, but I wanna say that he was in a hobble position.

Hamilton

Q. But, you're not for sure.

Barrett

A. I'm not positive.

Hamilton

Q. Then, what happened?

Barrett

A. That was pretty much it. The deputies were getting up pretty much, they were huffing and puffing, they were tired. They, they had been, it looked like they had been, put up a pretty good, the guy had put up a pretty good struggle.

Hamilton

Q. Okay.

Barrett

A. And, the deputies had to struggle with them, that's what it appeared to me.

Hamilton

Q. Who were the deputies?

Barrett

A. The only deputy that I remember at the time was Deputy Kluth.

Hamilton

Q. Okay.

Barrett

A. Excuse me?

Hamilton

Q. Go ahead.

Barrett

A. That's the only deputy I recall. I mean, actually at that, at that particular moment that I remember seeing the face of Deputy Kluth.

Hamilton

Q. But you...

Barrett

A. (Inaudible) and for that instant.

Hamilton

Q. Okay, but you know who was there, correct?

Barrett

A. I know, I know who was there now, today.

Hamilton

Q. Okay, who was that?

Barrett

A. To date, Kluth, Sloan, there was a four thou-, 5000 prowl, I'm trying to remember his name. From 9000 there was Deputy Romero, Broad, Kammer, Kluth, Sloan, I'll get this.

Hamilton

Q. No problem, if you don't remember.

Barrett

A. I know, I know the four guys, but I can't remember, I can't remember...

Bell

Q. But, you're remembering this from...

Barrett

A. This is from...

Bell

Q. ...what people have told you...

Barrett

A. ...this is from how, this from, this is what I have learned

after the incident, that's (inaudible).

Bell
Q. You don't remember anybody's face except Deputy Kluth?

Barrett
A. From the (inaudible).

Bell
Q. Do you remember other deputies getting up at that time?

Barrett
A. All of 'em...

Bell
Q. I don't mean their face, but I mean, do, do you recall other deputy sheriffs, green and tan getting up from the inmate or standing around and...

Barrett
A. Everybody was stand, kind of just mostly standing around.

Bell
Q. So, in your memory, then Kluth was the last one to get up?

Barrett
A. Well, I don't rem-, I can't say that, I'm, Kluth is the only face that I saw.

Bell
Q. Okay, he's the only face that you recall.

Barrett
A. That I, that I remember from that incident. And, you know, of course, I recall Deputy Romero holding the booth door open, the actual module booth, not the module door, but the booth in the module.

Bell
Q. The module can (inaudible).

Hamilton
Q. What about Deputy Kammer and Deputy Broad, what were they

doing?

Barrett

A. Standing right, now that I look back at it, they, they were there evidently, and everybody was pretty much just standing there. Everybody was just standing around.

Hamilton

Q. Alright, anything else?

Barrett

A. That's all, that's all I can remember.

Hamilton

Q. Did you see any deputy kick or punch this guy while he was restrained?

Barrett

A. I seen no kicks, no punches thrown at all, whatsoever. Like I said, the guy was already, when I got there, the guy was, what I, what I seen, the only thing I seen was this guy on the ground already handcuffed.

Hamilton

Q. Okay, did you see, any injuries on him?

Barrett

A. No, I did not.

Hamilton

Q. See any blood or anything?

Barrett

A. I saw no blood at all, I seen no injuries at all.

Hamilton

Q. How close did you get to the inmate?

Barrett

A. Well, not farther than, like I said, like I told you guys earlier from what, from the few steps that I took in there, inside the module, and he was definitely all the way, probably all the way over against the shower, so that's a good 30 feet, 20 feet, at

least.

Hamilton
Q. You're 20 feet from him, you didn't walk up on him or anything?

Barrett
A. No.

Hamilton
Q. Okay, okay. Alright, then what happened?

Barrett
A. I stood at the door for, for a while, that's where I pretty much spent all my time. I maybe spent two minutes there at the whole scene, maybe, if, that's pushing it. That's pressing it...

Hamilton
Q. Okay.

Barrett
A. ...if that, that's, that's just a guess off the top of my head.

Hamilton
Q. Okay. Did you see a sergeant or a senior?

Barrett
A. I seen no sergeant and I seen no senior, just the deputies that were there.

Hamilton
Q. Why did you stand at the door?

Barrett
A. Just hanging around, I was just there.

Hamilton
Q. Okay.

Barrett
A. You know.

Hamilton
Q. Then what happened?

Barrett
A. I left. There was, it was code 4, and I pretty much just, you know, it was a done deal, and nobody else, nobody needed assistance, it was obvious that there was no assistance, assistance required or needed...

Hamilton
Q. Okay. Did you leave first, or...

Barrett
A. As far as I know, yeah, I didn't see any deputy go by me. I don't know if they did or not, I don't know.

Hamilton
Q. Okay, you don't know if you left first, or Romero, or Broad or Kammer?

Barrett
A. I don't know. I have no idea.

Hamilton
Q. Okay. You see anybody else in there?

Barrett
A. As far as inmates?

Hamilton
Q. Yeah, witnesses, anything?

Barrett
A. The only, only two people that I seen was the guy in the doorway that I told you about...

Hamilton
Q. In the laundry room?

Barrett
A. In the laundry room, and the one dude, the one white trusty, or whatever he was, whatever his purpose in there was, was to the back of the shower.

Hamilton
Q. Okay, anything else?

Barrett
A. No, that's it.

Hamilton
Q. Okay, prior to going off, well, before we go off tape, did we talk about anything off tape? Or why don't you talk about what we talked about off tape, for example, we talked about this case off tape, correct?

Barrett
A. Right.

Hamilton
Q. Did we talk about anything else?

Barrett
A. No.

Hamilton
Q. Okay, we talked about reporting force, and we talked about that issue, correct?

Barrett
A. Right.

Hamilton
Q. Okay, and witnessing force.

Barrett
A. Right.

Hamilton
Q. We talked about four deputies being relieved of duty, correct?

Barrett
A. Right.

Hamilton
Q. We talked about the reason that we're here, to find out the truth about this particular case, correct?

Barrett
A. That's correct.

Hamilton
Q. Anything else?

Barrett
A. No, not that I'm aware of.

Hamilton
Q. Okay. Well, we're gonna end this interview at 0057 hours. Okay, thanks appreciate it.

END OF INTERVIEW

DEP. RICHARD BARRETT
I.A.B. INTERVIEW 11-14-95

SUBJECT INTERVIEW

CASE NUMBER IAB 008383

RICHARD BARRETT

Nemeth

Q. Today's date is Tuesday, November 14, 1995. Time is 1045 hours. I'm Sergeant John Nemeth. This is Sergeant Ernie Gjendem. We're from Sheriff's Internal Affairs Bureau and we're here today at the Sheriff's Internal Affairs interview room interviewing Subject Deputy Richard Barrett. Deputy Barrett, would you spell your last name and state your employee number for the record, please?

Barrett

A. B-A-R-R-E-T-T, employee number [redacted]

Nemeth

Q. Okay, and Deputy Barrett is here represented by his attorney, Miss Helen Schwab. Miss Schwab, would you spell your last name for the record, please?

Schwab

A. You don't know how to spell my last name?

Nemeth

Q. I do, but the transcriber may not know.

Schwab

A. S-C-H-W-A-B, and that's at Green and Shinee, S-H-I-N, double E, we're the A.L.A.D.S. attorneys.

Nemeth

Q. Okay, thank you, and also that serves as a voice identification for the transcriber who at some point's gonna be transcribing the tape. Okay, Deputy Barrett, prior to going on tape, I provided you with a copy of your rights as a sworn subject in this case which I see you indicated yes to the questions, signed your name and affixed your initials to the

form. Do you understand your rights as a sworn subject in this case, Deputy Barrett?

Barrett
A. Yes.

Nemeth
Q. Okay, and you understand that you're being ordered not to discuss the facts of this case or any of the issues we talk about in this interview with any deputies, with anybody except your representative who's sitting--sitting--

Barrett
A. --Yes--

Nemeth
Q. --next to you. Okay, also prior to going on the record we provided you with two verbatim transcriptions of prior statements you--that you gave to Internal Criminal investigators when they spoke to you back approximately a year ago. Is that correct?

Barrett
A. Yes.

Nemeth
Q. Okay, and just for the record, we provided those to you because we have those in front of us and we want to afford you every opportunity to--to review what you said. The only--the only caveat I add to that is that we didn't provide them initially because they were not corrected, we've only just got them back and the transcripts contained several inaudible moments of speech where the transcriber wasn't able to determine what you were saying or what the--the interviewer was saying. So because of that, we hadn't provided them to you previously, but we did provide them to you and you did read them before this interview, correct?

Barrett
A. Yes.

Schwab
A. And sergeant, just to make a correction there, it's my understanding you provided the transcriptions of the interviews because prior to going on tape I as Deputy Barrett's representative made a request pursuant to Government Code Section 3303 that we be provided with the transcribed interviews, basically because I saw Sergeant Gjendem with a copy of a transcription that appeared to be Deputy Barrett's prior interview that we had not previously received.

Nemeth
Q. That's correct and--and again, the reason you hadn't previously received them is we had just gotten them back. They do contain several inaudibles in other sections which had not yet been corrected but because by virtue of the fact that we have it, we're gonna provide it to you after verifying your representative's statement. Okay, do you have any questions, Deputy Barrett?

Barrett
A. No, sir.

Nemeth
Q. Okay, again, just to reiterate, we're talking about an event that happened on October 27, 1994. Were you working at Central Jail that day?

Barrett
A. Yes, I was.

Nemeth
Q. Okay, and how long have you been assigned to Central Jail to this point?

Barrett
A. Since February 10th, I believe, 1992.

Nemeth
Q. Okay, and back on October 27, 1994, were you working the early morning shift?

Barrett
A. Yes, I was.

Nemeth
Q. And your assignment that night?

Barrett
A. The Movement Control Deputy, 9000.

Nemeth
Q. Okay, now did you at some point become alerted to a disturbance in Module 4400?

Barrett
A. Yes, I did.

Nemeth
Q. Okay, and how did--how were you alerted to that?

Barrett
A. I thought I heard over the All Call P.A. system in the jail that there was a disturbance on 5000, I believe it was--what I heard was 5000.

Nemeth
Q. Okay, were you carrying a radio that night?

Barrett
A. No, I was not.

Nemeth
Q. Okay, and when you heard it, where were you?

Barrett
A. I was at--I was at my assigned desk in the--in the 9000 control booth.

Nemeth
Q. Okay, and that's the floor above 5000, is that right?

Barrett
A. Right.

Nemeth
Q. Okay, so if I understand correctly, you overheard what you believed was a public address announcement--

Barrett
A. --I thought it was--

Nemeth
Q. --on the floor below you?--

Barrett
A. --I remember it as being the All Call.

Nemeth
Q. The All Call being?

Barrett
A. Being--

Nemeth
Q. --the--the people for everywhere?

Barrett
A. The people who operate the P.A. system from Main Control downstairs.

Nemeth
Q. Okay. Okay, so do you have an independent recollection today whether it was the public address system for the whole jail--?

Barrett
A. --I still don't know how the call came out.

Nemeth
Q. Okay.

Barrett
A. I still to this day do not know how that--what the actual call was or how it was brought to my attention. There is a radio, however, in the booth--

Nemeth
Q. --Uh-huh--

Barrett
A. --for the booth person who operates (inaudible)

Nemeth
Q. Did you hear anything on that?

Barrett
A. I don't know. I--like I said, I thought it was the All Call System.

Nemeth
Q. Okay, so that means you don't remember hearing it off the radio or--?

Barrett
A. I don't remember hearing it off the radio.

Nemeth
Q. Okay.

Barrett
A. I remember it as being an All Call throughout the jail.

Nemeth
Q. Okay, so what did you do?

Barrett
A. Nothing right away, I--I kinda hesitated a little bit. I did--I did eventually leave the booth and go down to 5000 which is the floor below us. I went down there, looked around the hallways, seen nothing, started back towards my floor and went back up the escalator a piece and then I either heard--and then for some reason the attention was brought to me to go to 4000.

I can't remember if it was an All Call again, a radio, or a commotion downstairs but I heard something to go down to 4000 and I made my way down to 4000.

Nemeth

Q. Okay, did you see any other deputies responding?

Barrett

A. I know there was somebody on our floor prior to my departure that had left for downstairs. I don't know where they went, actually (door closes) they went downstairs.

Nemeth

Q. Okay, well, we have the in-service from the night in question. Do you remember who it was or would you like to look at the in-service to help you?

Barrett

A. No, I know who it is now.

Nemeth

Q. Okay, who is it?

Barrett

A. Now, it's Deputy Broad and Kammer, and Romero.

Nemeth

Q. Okay, what do you--

Barrett

A. --(inaudible) from 9000 floor.

Nemeth

Q. Okay, what do you mean you know who it is now?

Barrett

A. Just because--

Nemeth
Q. --Because--

Barrett
A. --because it's been a year or so pass, I've seen the transcript, I've heard, you know, just general information of who eventually had been there.

Nemeth
Q. All right, but what I'm trying to get to is what you remember, okay--

Barrett
A. --At that time--

Nemeth
Q. --(inaudible) prior transcript--

Barrett
A. --okay, at that time, and I--probably in the first interview I remember going down--I don't know who left the floor, to tell you the truth, prior to my departure. I don't remember who had left prior to my departure that night.

Nemeth
Q. Okay, did you--

Barrett
A. --Meaning, if I went back and was to give you that statement that night, I couldn't have told you from the floor had left.

Nemeth
Q. Okay, but--

Barrett
A. --'Cause I didn't see them--

Nemeth
Q. --you got to the module, correct?

Barrett
A. I got to--

Nemeth
Q. --You--

Barrett
A. --the module, yes.

Nemeth
Q. --you ultimately got to Module 4400?--

Barrett
A. --Right--

Nemeth
Q. --is that right? How much time do you think elapsed from the time you first heard some announcement or whatever until the time you arrived?

Barrett
A. Let's see--

Schwab
A. That would be arriving at 4400, correct?

Nemeth
Q. Right, correct.

Barrett
A. I'd say ultimately probably 45 seconds to a minute, ultimately.

Nemeth
Q. Okay, and when you first heard it, did you hear--what did you hear on this address system?

Barrett
A. I thought I heard either--it was--and I'm still confused on this, either inmates--an inmate disturbance or deputy involved with inmate state--uh.

Nemeth
Q. You don't remember which it was?

Barrett
A. I can't remember which one it was. It was one of the two.

Nemeth
Q. Is one much higher priority--

Barrett
A. --No--

Nemeth
Q. --than the other?

Barrett
A. Well, of course, any time there's a deputy involved, we try to--try to assist them as soon as possible, of course.

Nemeth
Q. Okay, you don't remember as you sit here today which it was?

Barrett
A. It was one of the two. I can't remember.

Nemeth
Q. Okay, so you heard that and you began responding and nobody left with you? You said somebody left ahead of you, you don't know who it was, is that right?

Barrett
A. I--no, I don't know who it was at the time that left before I did.

Nemeth
Q. Was it one person or more than one person?

Barrett
A. I don't know.

Nemeth
Q. Somebody or--

Barrett
A. --I--I remember somebody leaving the floor. I don't know who it was. I know--

Nemeth
Q. --And you don't know if it could've been more than one person, is that right?

Barrett
A. No.

Nemeth
Q. Okay, so you get down there and there's nobody going with you, you're basically going solo, is that right?

Barrett
A. Exactly.

Nemeth
Q. You don't see anybody in front of you?

Barrett
A. Negative. Nobody was in front of me.

Nemeth
Q. You're just by yourself--

Barrett
A. --I was by myself--

Nemeth
Q. --and you went down the escalator, is that what you said?

Barrett
A. Yes, I did.

Nemeth
Q. Okay, and then you got to the 5000 floor, is that what you said?

Barrett
A. Yes.

Nemeth
Q. And you looked around and you didn't see anything.

Barrett
A. I went--I stopped at the 5000 floor, went past the control booth, looked down the hallway, see nothing.

Nemeth
Q. Uh-huh.

Barrett
A. Went back towards the escalator and started walking up towards 9000 again.

Nemeth
Q. Did you see the deputy working the 5000 control booth?

Barrett
A. Yes.

Nemeth
Q. Did he indicate to you, you know, point down or--

Barrett
A. --I don't recall--

Nemeth
Q. --give you some kind of indication--

Barrett
A. --if he did that or not--

Nemeth
Q. --of where it was?

Barrett
A. I do not recall if he did that or not.

Nemeth
Q. Well, I guess a logical assumption is if he did--

Barrett
A. --I know--

Nemeth
Q. --you wouldn't go back upstairs, right?

Barrett
A. --Right. I heard--it was either--

Schwab
A. --Wait a second, do you want him to answer regarding logical assumptions or regarding his specific recollection?

Nemeth
Q. Well, his recollection but--

Schwab
A. --Okay, he indicated to you he didn't recall if there was any additional contact other than seeing the control booth officer.

Nemeth
Q. Okay, all right.

Barrett
A. But back up on my way towards 9000 I heard something that brought my attention to go back down to 4000.

Nemeth
Q. And what did you hear?

Barrett
A. It was either the call on the radio or--I mean, the All Call on the P.A. system--either a 4000 P.A. system or just--just--just noise in general, I don't know what brought me to go back down to 4000.

Nemeth
Q. What kind of noise?

Barrett
A. I don't know, just a commotion. I don't know, that's what I'm saying, I--I'm still iffy on that, whether it was the P.A. system or noise, but for some reason I went back down to 4000.

Nemeth
Q. Okay, and you think you got up there a minute to 45 seconds after you first heard this announcement?

Barrett
A. If not longer, that's just a guess.

Nemeth
Q. Okay, so you get there and then what do you see?

Barrett
A. I went towards the booth and the control booth person was pointing at the area where the--the--I guess disturbance was, 4400.

Nemeth
Q. Is that Deputy Howard?

Barrett
A. I know that to be Deputy Howard now, yes.

Nemeth
Q. Okay, and what'd you do then?

Barrett
A. I keyed the door open to--well, I first I pulled on the door, the door was locked, I keyed the door open and went inside the module.

Nemeth
Q. Okay, and what'd you see inside?

Barrett
A. As soon as I stepped inside the module, I seen the inmate laying on the ground, handcuffed. I seen a few deputies, some standing, some kneeling. I seen, at the same time, an incident that looked to me to be Code 4.

Nemeth
Q. Okay, why did it look Code 4 to you?

Barrett
A. There was no more activity going on at all, it was--it was done, whatever they did.

Nemeth
Q. All right, who were the deputies they saw kneeling?

Barrett
A. Initially I saw Deputy Sloan and I believe it was Kluth.

Nemeth
Q. They were kneeling?

Barrett
A. Those were the--well, there was deputies standing and there was deputies semi-kneeling--

Nemeth
Q. --What is semi-kneeling to you?--

Barrett
A. --I'd say--

Nemeth
Q. --Squatting or what--?--

Barrett
A. --like--

Nemeth
Q. --Bent over or--?--

Barrett
A. --bent over, kind of getting up, you know, it was a--you know, looking like the end of a--the end of the whole thing. I mean, nobody--everybody was just kinda like getting up.

Nemeth
Q. Okay, so who was in those positions, just getting up or bent over, semi-kneeling?

Barrett
A. Everybody that was there was pretty much in the same area so I want to say Deputy Kluth, Deputy Sloan, I believe, I recall seeing them kneeling, but I--

Nemeth
Q. --Okay, and what--and the others were--

Barrett
A. --it's been a while--

Nemeth
Q. --standing then? 'Cause you're making some--

Barrett
A. --Yeah--

Nemeth
Q. --differentiation--

Barrett
A. --Yeah--

Nemeth
Q. --between them and the others. Okay, who else then--who were the ones that were standing?

Barrett
A. --Those were the only--at the time those were the only two deputies that I recognized because like I said, when I went in there--this was a--this thing was quick.

Nemeth
Q. Uh-huh. Well, what do you mean recognized? Did you see other deputies you didn't know who they were?

Barrett
A. No, I just didn't pay much attention to it.

Nemeth
Q. Okay.

Barrett
A. At first glance, those were the two deputies that I recognized.

Nemeth
Q. Okay, but how many deputies did you see there total?

Barrett
A. Four, five (inaudible)

Nemeth
Q. Six?

Barrett
A. Six.

Nemeth
Q. Somewhere--

Barrett
A. --Somewhere--

Nemeth
Q. --between five and six?--

Barrett
A. --in that area. There was a group of deputies there.

Nemeth
Q. Okay, and what you're saying is you recognized two of them as Sloan and Kluth.

Barrett
A. Right.

Nemeth
Q. And they were in some kind of a kneeling or semi-kneeling position--

Barrett
A. --As I recall, right.

Nemeth
Q. As if they were recovering themselves from a bent over or on the floor, is that right?

Barrett
A. Right.

Nemeth
Q. And you saw two or four other deputies in addition to those two?

Barrett
A. There was a group of deputies, I couldn't give you an exact number.

Nemeth
Q. Okay, and that group was standing?

Barrett
A. They were standing.

Nemeth
Q. And where were they standing?

Barrett
A. I don't recall. There was just a group of deputies there, I didn't concentrate on their positions--

Nemeth
Q. --Where--where was the whole group as you come in the module, what--what side?

Barrett
A. Just right of the control booth.

Nemeth
Q. Okay, so right as you're facing the control booth?

Barrett
A. If you walked into that door and you looked at the control booth, it would've been off somewhat to the right.

Nemeth
Q. Okay, all right, well that--if you're familiar with that module, 4400?

Barrett
A. I haven't worked down there a whole lot. I got a basic idea (inaudible) --

Nemeth
Q. --Okay, would that be the Baker Denver Row side?

Barrett
A. Yes, sir.

Nemeth
Q. Okay, and whereabouts, on the--in the sally port area, on the--

Barrett
A. --On the sally port area.

Nemeth
Q. Okay, in front of the Baker Row shower area?

Barrett
A. Yeah, it--actually in front of the--well, in front of the gate which is the same, I guess, location. I remember it being in front of the gate--

Nemeth
Q. --Okay--

Barrett
A. --that leads to--leads to the row.

Nemeth
Q. So, Baker and Denver Row gates are side by side, correct?

Barrett
A. --Right.

Nemeth
Q. --So in that area?

Barrett
A. General area.

Nemeth
Q. Okay, and is there a laundry room or a mop room or something right there?

Barrett
A. Immediately off to the left there's a storage room when you first enter the door--

Nemeth
Q. --Okay--

Barrett
A. --there's a storage room.

Nemeth
Q. Right, that's a storage room. Now, on the right-hand side where you're talking about, if you round that corner there's a door there, you familiar with that?

Barrett
A. When you round the corner?

Nemeth
Q. Uh-huh.

Barrett
A. Off to the left, there's a--there's a storage room--

Nemeth
Q. --Okay--

Barrett
A. --but nothing off to the right.

Nemeth
Q. Okay, let me ask you this. When--when you looked down at the inmate on the floor there, right?

Barrett
A. Right.

Nemeth
Q. How close was he to--which way was his head pointing, towards the gates or the other direction?

Barrett
A. Let's see, if I remember right, towards the gates.

Nemeth
Q. Towards the gates--

Barrett
A. --It was kinda, yeah, towards the gates, kinda towards the shower. Not--not exactly towards the gates and not exactly towards the shower. I--I don't know how to explain it.

Schwab
A. Do you have a diagram of that area, sir?

Nemeth
Q. I have a photograph I'm gonna show him. Okay, how does this look to you? Does this look like the--

Barrett
A. --Yeah--

Nemeth
Q. --the area?

Barrett
A. Uh-huh.

Nemeth
Q. Okay, which way was his head pointing towards, the gates or?--

Barrett
A. --Here's the gates and here's the shower, he wasn't--his head wasn't pointing this way and it wasn't this way, it was more like this way.

Nemeth
Q. And his head being where?

Barrett
A. Towards this thing here. If you--if you was to use this--

Nemeth
Q. Uh-huh.

Barrett
A. --instead.

Nemeth
Q. The corner?

Barrett
A. Maybe a little bit more leaning towards the--the shower but not dead on.

Nemeth
Q. Okay, with your finger point where you think his head was.

Barrett
A. About like this.

Nemeth
Q. Okay.

Barrett
A. Not dead on to the showers, not dead on--

Nemeth
Q. And then which way would his feet be if his head is here?

Barrett
A. Be towards--

Nemeth
Q. --Just point (inaudible) where you think his feet were.

Barrett
A. Over here.

Nemeth
Q. Okay, so he's on an angle?

Barrett
A. Right.

Nemeth
Q. Is that about right? Kind of like on an angle?

Barrett
A. Right.

Nemeth
Q. All right, just to describe for the tape. His feet would be pointing closest to the--the main entryway, where you came in from, correct?

Barrett
A. Diagonal to the main entryway--

Nemeth
Q. --and his--okay, and his head would be more or less pointing towards the corner section that is formed by the Baker Row shower bars and this is the D Row gate, correct?

Barrett
A. Correct, but his head was favoring more to the shower, not exactly head-on to the shower--

Nemeth
Q. --Okay, and--and which way was his face pointing? This way or towards the showers?

Barrett
A. His face was down.

Nemeth
Q. Face down.

Barrett
A. I believe. If I recall right--

Nemeth
Q. --So when you got there, he was face down. Okay.

Barrett
A. If I recall right.

Nemeth
Q. You saw him handcuffed, right?

Barrett
A. Yes, sir.

Nemeth
Q. Okay, and is that how he was secured when you got there, just handcuffed?

Barrett
A. He was secure--he was definitely secured with handcuffs. He was definitely secured with handcuffs, yes.

Nemeth
Q. Was he hobbled?

Barrett
A. That I do not know. He may have been.

Nemeth
Q. Okay, you don't know either way?

Barrett
A. I don't know either way whether he was or not.

Nemeth
Q. Do you recall how--how his legs were positioned?

Barrett
A. No, I don't.

Nemeth
Q. Okay, you have--when you got there you saw him face down, correct?

Barrett
A. Yes, sir.

Nemeth
Q. Face down, and you've seen people hobbled before have you?

Barrett
A. Yes, sir.

Nemeth
Q. Okay, and when they're hobbled, do their legs stick up in the air essentially and they're--

Barrett
A. --Somewhat--

Nemeth
Q. --bound together and attached to the handcuffs, is that right?

Barrett
A. Somewhat, yes.

Nemeth
Q. Okay. Okay, do you remember seeing that?

Barrett
A. I do not recall, like I said, I don't recall. I know for sure he was handcuffed.

Nemeth
Q. Okay, and how do you know he was handcuffed for sure?

Barrett
A. Because he was secured. I mean, no-, no deputies had anything on, there were no hands on him, like he was secured with his hands behind his back.

Nemeth
Q. Okay, so you saw his hands behind his back, is that how you know he was handcuffed?

Barrett
A. Right.

Nemeth
Q. Okay, you don't remember his legs being bent?

Barrett
A. No, sir, I don't.

Nemeth
Q. Okay, so then what you're saying is, it's possible his legs weren't bound at that point then, is that right?

Barrett
A. As far as I'm concerned, yes.

Nemeth
Q. Well, that's who we're--

Barrett
A. --Yeah--

Nemeth
Q. --We're talking to you--

Barrett
A. --Yeah, I--

Schwab
A. --Well, that's all he can answer.

Nemeth
Q. That's right. That's exactly right, that's why I'm telling him no need to add that caveat.

Barrett
A. Yeah.

Nemeth
Q. Okay, so, now who are these other four deputy--two or four deputies that were there?

Barrett
A. From 9000?

Nemeth
Q. From the--from everywhere?

Barrett
A. Okay, well--

Schwab
A. --Well, do you want him to answer from what--

Barrett
A. --From what I knew then--

Schwab

A. --or what he knew then?

Nemeth

Q. Well what--what you knew. What you know now as we sit here today.

Barrett

A. Okay, what I know--I know now that there was two--two of the prowlers from 5000 there. Two--two deputies from 5000 there.

Nemeth

Q. And who's that?

Barrett

A. Deputy [redacted] and Deputy [redacted].

Nemeth

Q. Okay, for the record, the spelling on [redacted] is [redacted]. [redacted]. Okay, so you saw them there?

Schwab

A. No--

Barrett

A. --No--

Schwab

A. --he didn't say that.

Nemeth

Q. Well, I'm clarifying it, please.

Barrett

A. No, I did not. When I--like I said, when I seen the--momentarily when I looked at that, the only faces that I seen that I recognized was Deputy Kluth and Sloan.

Nemeth
Q. Okay, and how are you saying that--how--how are these other names coming in, [redacted] and [redacted]

Barrett
A. How are they coming in?

Nemeth
Q. Yeah.

Barrett
A. Just from general information that--throughout the jail, I mean--

Nemeth
Q. --Okay--

Barrett
A. --when these guys, yeah, general information.

Nemeth
Q. All right. You worked the jail for what, two years at the time of this incident? Two-and-a-half years?

Barrett
A. About that.

Nemeth
Q. Okay, and how much time did you spend on early morning shifts?

Barrett
A. All that time.

Nemeth
Q. All that time.

Barrett
A. All but six months of that time.

Nemeth
Q. Okay. Had you seen or known [redacted] and [redacted] before this incident?

Barrett
A. I know who they are and talked to them, yeah.

Nemeth
Q. Talked to them, what, all the time?

Barrett
A. No, not all the time.

Nemeth
Q. Do you see them in briefings?

Barrett
A. Occasionally.

Nemeth
Q. Okay, and--

Schwab
A. --Well, you know, sergeant, are you quarreling with his recollection or are you trying to argue with his recollection at this point?

Nemeth
Q. No, Miss Schwab, as you know, all I'm doing is trying to get the truth out. All I'm trying to do--

Schwab
A. --Okay, do you want him to guess as to who else was there?

Nemeth
Q. No, I don't want him to guess and I haven't asked him to guess. I'm asking him and I'm probing his memory--

Schwab
A. --He has told you five times exactly who he recalls being there at that time.

Nemeth
Q. No he hasn't.

Schwab
A. Those dep-, yes he has, sergeant, those were Deputies Kluth and Deputy Sloan.

Nemeth
Q. Okay.

Schwab
A. Now, do you have a problem with that response?

Nemeth
Q. No, I--but I'm entitled to further explore his memory, okay, and that's what we're gonna do, all right?

Schwab
A. Do you remember any other deputies that were present at that time?

Barrett
A. Momentarily, the only deputies that I saw was Kluth and Sloan.

Nemeth
Q. Okay.

Barrett
A. At that--at that instant.

Nemeth
Q. All right. Let's go back to what we were talking about. You've worked at the jail two-and-a-half years, right?

Barrett
A. Yes.

Nemeth
Q. And you spent that whole two-and-a-half years on early morning shift, right? Okay--

Barrett
A. --Not all of it, not--

Nemeth
Q. I thought that was your answer.

Barrett
A. Well, the first six months that I was there was on days (inaudible)

Nemeth
Q. --Okay--

Barrett
A. --the remainder of that was--

Nemeth
Q. --All right--

Barrett
A. --(Inaudible)

Nemeth
Q. So two years prior to this incident you had worked early morning shift, correct?

Barrett
A. Yes.

Nemeth
Q. Okay, and you're familiar with what [redacted] and [redacted] look like, correct?

Barrett
A. Yes, I am.

Nemeth
Q. Okay, and you arrived at that module that night--

Barrett
A. --Yes--

Nemeth
Q. --Correct? And you're gonna tell me that you didn't recognize them then?

Barrett
A. No.

Nemeth
Q. Why not?

Schwab
A. Didn't recognize who then, [redacted] and [redacted]

Nemeth
Q. Correct.

Barrett
A. When I went in there--

Schwab
A. --Okay, if you don't know why he didn't recognize them, it's okay to say, "I don't know." All you can do is state to the best of your recollection who you recall seeing at that time.

Barrett
A. Those are the only two guys that I remember seeing.

Nemeth
Q. Okay, let's go back to the question.

Barrett
A. Okay.

Nemeth
Q. You've worked at a jail two years. You worked with [redacted] and [redacted] for two years.

Barrett
A. Uh-huh.

Nemeth
Q. You're in that module and you see these deputies around him. Is there any reason--again, I'm not trying to trick you or anything--

Barrett
A. --Oh, I know--

Schwab
A. Yeah, you are, sergeant--

Nemeth
Q. --I just want you to get to the truth--

Schwab
A. --you're trying to argue with him.

Nemeth
Q. No, I'm not.

Schwab
A. Don't make those false representations--

Nemeth
Q. --Oh, that's absolutely--

Schwab
A. --or state that you're not trying to trick him--

Nemeth
Q. --that is absolutely false. All I'm trying to do is get your best memory, okay--

Barrett
A. --You got it--

Schwab
A. --He just told you that--

Barrett
A. --I'm serious, you got it.

Nemeth
Q. Okay, you know--how did you later learn that [redacted] and [redacted] were there?

Barrett
A. I learned that everybody was there later on. I've-- I learned every individual that was at that incident later on down the road from talking to the ultimate people, deputies obviously not showing up for work who were relieved of duty--

Nemeth
Q. --Uh-huh--

Barrett
A. --in a small community like early mornings in that jail is not uncommon--

Nemeth
Q. --Uh-huh--

Barrett
A. --to hear talk at all.

Nemeth
Q. Okay.

Barrett
A. Everybody knows that--that--that's a small group of people.

Nemeth
Q. Okay. Let me just say this, if this thought is flowing somewhere in your mind, okay, I'm gonna put you at ease. You don't have to stick to your prior statement like verbatim, okay? If you remember something additionally now, the world's not gonna cave in--

Barrett
A. --Oh, I understand that--

Nemeth
Q. --if you say, "Oh, you know what, I do remember this now." That--these--these things are not ironclad. You're a human being. You're allowed to make recollections of something that you didn't remember at a previous point when you're interviewed okay, so I just don't want that to be a stumbling block. I'm not saying that's what the case is but I don't want you to, you know--

Barrett
A. --Yeah--

Nemeth
Q. --concern yourself with that, all right?

Barrett
A. I just don't want to give you bad information from what I remember that night.

Nemeth
Q. Okay, all right, all right. How long were you in the module that night, Richard?

Barrett
A. The max, a minute. A minute a max, if that.

Nemeth
Q. Okay, did you see the inmate struggling?

Barrett
A. Not really, he was--maybe--he was kinda struggling, maybe moving around out of anger, I guess. He wasn't making much of a struggle, he was moving around.

Nemeth
Q. Okay, describe for me what his movements were?

Barrett
A. Movements like somebody that's--if you can picture somebody on their stomach with their hands handcuffed behind their back and still agitated--

Nemeth
Q. --Was he--?--

Barrett
A. --not making violent--nothing violent.

Nemeth
Q. Nothing violent, but struggling?

Barrett
A. But moving around, I wouldn't even call it strugg--struggling I guess a little bit.

Nemeth
Q. Okay, because that's the word you used before.

Barrett
A. Yeah.

Nemeth
Q. All right, what--well, I'm--I guess I'm trying to visualize what a person on their back--you said he's handcuffed with his hands behind his back--all right, on his--on his face--on his stomach, right?

Barrett
A. Right.

Nemeth
Q. And he's got his hands behind his back handcuffed.

Barrett
A. Right.

Nemeth
Q. Did you see handcuffs on his wrists?

Barrett
A. I remember his hands being behind his back. I can't say that I remember seeing--

Nemeth
Q. --Okay--

Barrett
A. --handcuffs.

Nemeth
Q. So it's possible he was just holding his hands there?--

Barrett
A. --His hands were secured behind him--no way. Nobody was--nobody was--

Nemeth
Q. --Nobody was holding his hands--

Barrett
A. --(Inaudible) he was--his hands were behind his back.

Nemeth
Q. Okay, so I guess what I'm saying is if you didn't see handcuffs, it's possible for a person to hold their hands behind their back in a position similar to them being handcuffed, right?

Barrett
A. I suppose it could be.

Nemeth
Q. Okay, you didn't see handcuffs though, is that right?

Barrett
A. I did not.

Nemeth
Q. All right tell-- describe for me his body movements that you saw--

Barrett
A. More--more of a wiggling motion type--

Nemeth
Q. --Wiggling his--

Barrett
A. --meaning he wasn't--he was on his stomach. If he really wanted to I guess he could've flopped around violently and tried to get off his stomach, but he didn't do that.

Nemeth
Q. Okay, well, was he kicking his legs?

Barrett
A. I don't recall. I don't recall seeing his legs flopping around.

Nemeth
Q. Okay, well, was he wiggling his shoulders or rolling--

Barrett
A. --His whole body was--

Nemeth
Q. --from side to side?--

Barrett
A. --kinda just agitating.

Nemeth
Q. Agitating.

Barrett
A. Agitating, that I would call that his whole body. I--I can't remember a specific limb or a specific part of his body flailing around or anything like that. He was just in general making a motion as if somebody was handcuffed or hands secured behind their back moving around. Now, I wish I had a better description for you but there's--I can't think of one.

Nemeth
Q. Okay, was he struggling against the handcuffs? Was he trying to wrest his arms free somehow? I'm just trying to get from you your best memory.

Barrett
A. I don't remember if he was trying to get out of his handcuffs or--

Nemeth
Q. --Okay, something caused you to say that he was moving---Struggling--and then you said he was wiggling.

Barrett
A. Struggling--he was--

Nemeth
Q. --What's he struggling against? I mean, the word struggle implies that you're struggling against something.

Schwab
A. You know, Sergeant, this is so argumentative.

Nemeth
Q. No, it isn't.

Schwab
A. This is so argumentative.

Nemeth
Q. This is an opportunity to ask the man why he chose the word struggle. I'm ju-, was he struggling with deputies? Was he struggling against restraints?--

Barrett
A. --Nobody had their hands on him--

Nemeth
Q. --Pardon me?

Barrett
A. Nobody had their hands on him.

Nemeth
Q. Okay, I'm just trying to--what was he struggling against?

Barrett
A. He was on--

Schwab
A. --If you know--

Barrett
A. He was on his stomach. It appeared that he was just being--he was in--making an agitating motion. He was just kind of--his whole body was just still moving around. His whole body was just still moving around.

Nemeth
Q. Okay, and I guess what I'm trying to say is if his hands were behind his back, he's laying on his stomach, you--you're telling me you don't remember his legs moving though, right?

Barrett
A. I don't recall his legs in particular, not--I can't single out his legs and say I--I seen them moving, no. That--they just don't come to mind.

Nemeth
Q. Well how does a person who's laying on their stomach, face down, with their hands behind their back--how does their whole body move? I guess that's what I'm trying to get out of you?

Barrett
A. You can wiggle, you can--I don't know, I don't know how to describe it to you. You--you--

Nemeth
Q. Did it look like he was trying to get up to his feet?

Barrett
A. --No--

Nemeth
Q. --or what?--

Barrett
A. --if he wanted to--I'm sure that if he'd of wanted to have rolled over, he could've probably rolled over--

Nemeth
Q. --But he didn't--

Barrett
A. --if he would've made an effort, maybe he could've, I don't know, maybe he did do that.

Nemeth
Q. Okay, was he--

Barrett
A. --And if he--

Nemeth
Q. --was he looking like he was trying to do that? Is that what you're describing as struggling--?

Barrett
A. --I don't--

Nemeth
Q. --or resisting?

Barrett
A. --I don't believe he was trying to get up, no.

Nemeth
Q. Okay, all right, were--were any of the deputies touching him or holding him down?

Barrett
A. Like I said, they were--some were standing--when I--first glimpsed I saw is guys in a group, some standing, some kinda half kneeling.

Nemeth
Q. Was anybody trying to overcome this resistance--this struggling that you saw?

Barrett
A. I didn't see nobody touching him at all. I didn't see anybody trying to stop him from doing anything.

Nemeth
Q. Wouldn't you think it's a--a good idea for deputies to--to stop an inmate who is resisting or attempting to, you know, get up from a restrained position or whatever?

Schwab
A. Are--are you trying to argue with his answer about the fact he did not see a deputy with his hands on the inmate?

Nemeth
Q. No, not at all.

Schwab
A. (Inaudible)

Nemeth
Q. No, I'm trying to discuss the--

Schwab
A. --Well, what's this good idea issue?--

Nemeth
Q. --Well, the idea is the--the idea of the question is to ask Deputy Barrett if that is reasonable under the circumstances that nobody's touching this inmate who's struggling in an attempt to, I don't know, free himself or rise to his feet or what? Wasn't this an inmate that's involved in an attack on a deputy sheriff?

Barrett
A. From what I've heard.

Nemeth
Q. From what you've heard, what? Yes or no.

Barrett
A. Can you give me the question again, please?

Nemeth
Q. Was this in-, was this inmate that we're talking about, wasn't he just involved in a--in an attack, a physical conflict, encounter, struggle with a deputy sheriff?

Barrett
A. I guess.

Nemeth
Q. Okay, from what you understand, right?

Barrett
A. From what I understand.

Nemeth
Q. And do you think it's--you think it's reasonable that deputies would attempt to restrain a person who did such a thing?

Barrett
A. Which they did.

Nemeth
Q. Okay, now you're telling me you see this individual struggling on the ground and yet no deputies are touching him or trying to restrain him or anything?

Barrett
A. Not to the point where he needed to be--

Nemeth
Q. Not to the point where he needed to be what?

Barrett
A. Where--it wasn't--it wasn't obvious--I mean, the guy wasn't moving around where it was necessary for somebody to--to--to restrain him again. No, not that I could see.

Nemeth
Q. Okay, so nobody--he wasn't endangering anybody by these movements?

Barrett
A. No--

Nemeth
Q. --Okay--

Barrett
A. --he was not.

Nemeth
Q. All right, okay. You didn't see anybody apply handcuffs to him or a hobble or anything like that?

Barrett
A. I did not.

Nemeth
Q. All right, was the inmate saying anything at this point?

Barrett
A. He was babbling a few things. I don't know of anything in particular of what he said but he was babbling a few things in anger--

Nemeth
Q. --So he was angry?

Barrett
A. He was angry.

Nemeth
Q. And how did you determine anger?

Barrett
A. Just from the way he was babbling around. The way--the way he was babbling.

Nemeth
Q. His voice sounded angry or--?--

Barrett
A. --Yes, it did. The tone of his voice.

Nemeth
Q. Was he saying threats or anything like that?

Barrett
A. I didn't hear any threats at all.

Nemeth
Q. So you determined he was angry by the--the level or tone of his voice, is that right?

Barrett
A. That's what it sounded like to me, yes.

Nemeth
Q. Okay, you're nodding your head but we need to get, yeah--

Schwab
A. --He said that's what it sounded like--

Barrett
A. --By the tone of--

Schwab
A. --to him.

Nemeth
Q. Go ahead.

Barrett
A. By the tone of his voice, yes, I would--I would think he was angry.

Nemeth
Q. Okay, so you're--you're there, you saw that--you saw these deputies there, two of which you recognized and two out of four of which you didn't recognize at the time. Is that right?

Barrett
A. (No answer heard.)

Nemeth
Q. Okay. Now, was there anybody else from 9000 there?

Barrett
A. Deputy Romero is the only guy that I seen from 9000 there.

Nemeth
Q. Okay, and he--is he part of that group of four to six that you said you saw?

Barrett
A. No, he was off to the left.

Nemeth
Q. Okay, so he would be a seventh person and you would be an eighth?

Barrett
A. I--I don't know exactly how many people--

Schwab
A. --He said he didn't know how many people--

Nemeth
Q. --(Inaudible)

Schwab
A. --now why're you trying to change his response to that?

Nemeth
Q. --No, I am not, my notes indicate that he was stating earlier that there were four to six deputies present at the time he arrived. Is that correct?

Barrett
A. Could be.

Schwab
A. Okay, so if there were only four, this would be the fifth deputy--

Nemeth
Q. --That's--

Schwab
A. --if there were six, there would--this would be the seventh.

Nemeth
Q. That's true.

Schwab
A. Now, why would you try to change his response?

Nemeth
Q. --I'm not trying to change his response--

Schwab
A. --Okay, don't put words in his mouth.

Nemeth
Q. I am absolutely not trying to put--

Schwab
A. --Yes, you are--

Nemeth
Q. --That's--Miss Schwab--

Schwab
A. --That's exactly what you've been doing the entire time--

Nemeth
Q. --(Inaudible) no it is not. That's why we run tape recorders. That's why we do verbatim transcriptions--

Schwab
A. --You're doing this interview a year and a month after the incident occurred and you expect--

(Side A of Tape 1 ends at this point.)

Schwab
A. Let me just state for the record, Sergeant, that you're--

Nemeth
Q. --We're continuing this--

Schwab
A. --clearly arguing with the deputy in question. You're trying to change his responses. The deputy can only answer what he knows. He can't answer what you're trying to put in terms of words in his mouth.

Nemeth
Q. We're continuing with Deputy Barrett's interview. This is Side 2. You've just heard the tail end of Miss Schwab's opinion--

Schwab
A. --Objections--

Nemeth
Q. --objection--

Schwab
A. --to the manner in which you're conducting this interrogation. The deputy is entitled to respond as to his best recollection, not as to what you think happened.

Nemeth
Q. Okay. In this interview what I'm entitled to do is get your best memory of it, okay, and so what I'm trying to do is figure out exactly what you're trying to say. When you said four to six, the people that you saw, Deputy Romero you said, correct, from 9000 standing off to the left. He would then be either the fifth or the seventh deputy that was present, is that correct?

Barrett
A. There was a group of deputies there. I--I don't know the exact amount of deputies that were there at that time.

Nemeth
Q. Okay. Who else did you see from 9000 besides Romero?

Barrett
A. That was it.

Nemeth
Q. That was it.

Barrett
A. That was it.

Nemeth
Q. Okay, could anybody else from 9000 have been some of these unknown deputies--?--

Barrett
A. --I'm sure they--

Nemeth
Q. --who you didn't recognize?--

Barrett
A. --I'm sure they could have been.

Nemeth
Q. Sure they could have been? Okay. How long had you worked 9000?

Barrett
A. A year.

Nemeth
Q. A year prior to this incident, right?

Barrett
A. Right.

Nemeth
Q. Okay, and had you worked with Deputy--Deputy Broad in that time for a year?

Barrett
A. Off and on.

Nemeth
Q. Off and on. How about Deputy Kammer?

Barrett
A. Yes, off and on.

Nemeth
Q. And Romero who you already mentioned?

Barrett
A. Uh-huh.

Nemeth
Q. I'm sorry, is that yes or--

Barrett
A. --Yes.

Nemeth
Q. And how about Deputy Icamen?

Barrett
A. Yes.

Nemeth
Q. Okay, and I think you said earlier, early morning group of deputies is kind of a small close knit, I think you called it like a family or something, right?

Barrett
A. No, I don't know about a family.

Nemeth
Q. Small close knit group--

Barrett
A. --It's a smaller group than the other two shifts, so it's--yeah, smaller group.

Nemeth
Q. Okay. And you didn't see Icamen there?

Barrett
A. No.

Nemeth
Q. You didn't see Kammer there?

Barrett
A. No.

Nemeth
Q. Okay, you saying he wasn't there?

Barrett
A. No, I'm not saying that. I know--I know for a fact down the road who was there. At that time, I did not see him.

Nemeth
Q. Okay, and is that because your attention was concentrated on the inmate or something?

Barrett
A. Well, I just--like I said, I--I glanced at it. It was more of a glance at that incident.

Nemeth
Q. Okay. Well, you said you were there about 45 seconds to a minute, correct?

Barrett
A. Right.

Nemeth
Q. Okay. Okay, well a minute is time to look at the--survey the situation, correct?

Barrett
A. I agree.

Nemeth
Q. Okay, so then what happened after you were in the module for 45 seconds to a minute? You saw--

Barrett
A. --When I--

Nemeth
Q. --Wait, let's--let me recap. You saw Deputy Sloan and you saw Deputy Kluth in some kind of a semi-kneeling position recovering themselves from a position lower than standing--

Barrett
A. --If I recall--

Nemeth
Q. --Correct?--

Barrett
A. --Right, yes--

Nemeth
Q. --And--

Barrett
A. --(Inaudible)

Nemeth
Q. --Okay, and you saw Deputy Romero standing off to the left-
-

Barrett
A. --(Inaudible)

Nemeth
Q. --not involved in the situation?

Barrett
A. No.

Nemeth
Q. Okay, did you notice who was in the module control booth that night?

Barrett
A. When I went in there it was Deputy Romero off to the left of those guys at the--at the control booth.

Nemeth
Q. Was he inside the control booth?

Barrett
A. Partially, I believe, partially.

Nemeth
Q. Holding the door or something like that?

Barrett
A. Holding the door.

Nemeth
Q. Okay, was he--

Barrett
A. --half in and half out of the (inaudible)--

Nemeth
Q. --was anybody else inside the booth?

Barrett
A. Not that I'm aware of.

Nemeth
Q. Okay, all right. Then what happened after you were there for the--for the--did you touch the inmate at any time?

Barrett
A. Negative.

Nemeth
Q. Okay, did you assist in handcuffing him or hobbling him or anything like that? Okay, you're shaking your head, no.

Barrett
A. No.

Nemeth
Q. Okay--

Barrett
A. --Sorry--

Nemeth
Q. --Did you see any deputies apply handcuffs to this inmate?

Barrett
A. No, I didn't.

Nemeth
Q. Did you see anybody attempt to restrain this inmate in any way?

Barrett
A. No, I didn't.

Nemeth
Q. Did you see any deputies touch him at all?

Barrett
A. No, I didn't.

Nemeth
Q. Did you see any deputies kick him?

Barrett
A. No, I didn't.

Nemeth
Q. Did you hear the inmate complain of any injury or pain?

Barrett
A. No, I didn't hear of any--not of pain, no. I (inaudible)--

Nemeth
Q. --Did you see any blood?

Barrett
A. I didn't see no blood.

Nemeth
Q. You didn't see any blood either.

Barrett
A. I seen no blood.

Nemeth
Q. Okay, all right. You said you saw Sloan and Kluth. What was their--can you describe their uniform appearance? Start with Sloan.

Barrett
A. I can't remember what his uniform looked like. I just (inaudible) glanced at it.

Nemeth
Q. Okay, can you describe his general appearance or what--what you--anything you noted out of the ordinary to him?

Barrett
A. Other than that the deputy was--appeared to have been in a struggle, was tired, they--he seemed like he had--he had had a--a workout.

Nemeth
Q. Okay. What causes you to say that?

Barrett
A. 'Cause he was--he just--his breathing--he was--

Nemeth
Q. --Was he out of breath?

Barrett
A. --just, well, I don't know if he was totally out of breath, it just looked like somebody had been in a struggle.

Nemeth
Q. Okay, was his uniform disheveled?

Barrett
A. I don't recall.

Nemeth
Q. Okay, that's Sloan we've been talking about, correct?

Barrett
A. Right.

Nemeth
Q. Okay, and how about Kluth?

Barrett
A. Same thing with him. It looked he had been in-, involved in a struggle. I don't recall what his clothes looked like.

Nemeth
Q. And was he out of breath or breathing hard?

Barrett
A. Appeared to be, yeah.

Nemeth
Q. Okay, how about Romero?

Barrett
A. Mmmm, he was at the door, he just--I don't recall anything specific about Romero.

Nemeth
Q. He was out the door? I'm sorry.

Barrett
A. He was just at the door, I--

Nemeth
Q. --Oh, at the door? Is that what you said?

Barrett
A. At the booth door.

Nemeth
Q. Okay, you didn't recall him being out of breath or anything?

Barrett
A. No.

Nemeth
Q. All right, did--did either Sloan or Kluth complain of any injury or pain?

Barrett
A. No.

Nemeth
Q. All right, so after you saw the inmate was handcuffed, what did you do?

Barrett
A. When I came to the booth, when I seen them I glanced at them--as I was coming in, out of the corner of my eye, I seen an--an inmate in the storage area off to the left. I looked at those guys and then brought my attention to him.

Nemeth
Q. The storage room? Is that that storage room you were talking about?

Barrett
A. Not the one that you saw in the picture--

Nemeth
Q. --right--

Barrett
A. --but the one immediately off to the left of the door.

Nemeth
Q. Okay, right, is that the one that has like a screen that protrudes, covers part of a window and a little shelf looks like you hand things through. That type of thing?

Barrett
A. I don't remember seeing that. I know there's a door there, I don't recall seeing the screen.

Nemeth
Q. All right, who did you see in there?

Barrett
A. It was an inmate standing somewhat back a little bit from the door.

Nemeth
Q. What did he look like?

Barrett
A. He was a black inmate.

Nemeth
Q. Okay, not this picture, this one, does that look like the--that room or what might be the inside of that room?

Barrett
A. I don't--I don't recall from--

Nemeth
Q. --Can't tell from that picture?

Barrett
A. Well, I just don't recall seeing this window, I don't--

Nemeth
Q. Excuse me.

Barrett
A. I don't recall seeing that window.

Nemeth
Q. Okay, and how about that? Is that a better shot for you?

Barrett
A. Well yeah, I can--

Nemeth
Q. Is that the (Inaudible)

Barrett
A. (Inaudible) I don't remember the window, I know there's a door right next to this if--

Nemeth
Q. --Okay--

Barrett
A. --if that's the area (inaudible)--

Nemeth
Q. --You can't see the door but this is as you're facing the module, correct?

Barrett
A. Right.

Nemeth
Q. And this would be the AC Row, is that correct?

Barrett
A. Yes, sir.

Nemeth
Q. Okay, and there's a window with a screen here and looks like a stainless steel shelf or something. Is that--is that what you're thinking of or not?

Barrett
A. No, uh-uh, there's a door--

Nemeth
Q. --A door over here?--

Barrett
A. --off to the left of that.

Nemeth
Q. Okay, and you saw this black inmate in the doorway or where?

Barrett
A. He was a little bit back behind the doorway, not--

Nemeth
Q. --Inside that room?

Barrett
A. Right.

Nemeth
Q. Okay, and what was he doing in there, if you know?

Barrett
A. He wasn't doing nothing. He was just standing there.

Nemeth
Q. Okay, so what did you do?

Barrett
A. Well after I turned my attention to him I told him to go to the back of the--back of the storage room, I believe I told him--

Nemeth
Q. --Back in that same room?

Barrett
A. Yeah.

Nemeth
Q. Okay, all right, and then what happened?

Barrett
A. He did.

Nemeth
Q. Okay, and what'd you do next?

Barrett
A. Turned back and looked around, I was at the--I--let me see what I did, I turned around, if I recall right, I looked back at those guys again, went back to the door and I was out of there.

Nemeth
Q. Who's those guys again?

Barrett
A. The group of deputies that were there.

Nemeth
Q. Okay, all right, and at this point, as you're sitting here today, I'm just asking you from your memory, not what you heard--jail rumors or who got relieved--

Barrett
A. --Right--

Nemeth
Q. --When you look back at this group for a second time, the only two people you recognize was Sloan and Kluth?

Barrett
A. That's right.

Schwab
A. You know you're using the term recognize. That's your term, not his. He says the only two he remembered seeing were Sloan and Kluth. There's a difference between recognition and paying attention.

Nemeth
Q. Okay. Do you understand the difference she's making?

Schwab
A. Well, no, no--

Nemeth
Q. --Well--

Schwab
A. --do you understand the difference I'm making, Sergeant?

Nemeth
Q. Sure I do. I want to ask him if he knows.

Schwab
A. --My client--no, no, you don't ask my client about my statements to you. What I'm saying to you is that you're using the term recognition. He said he only recalled seeing two of the deputies, not that he only recognized two of the deputies. You're acting like he saw five deputies and couldn't recognize any of them--

Nemeth
Q. --No, that's--

Schwab
A. --that's not what he said.

Nemeth
Q. Okay, hold on, whoa, whoa, whoa, whoa.

Schwab
A. --He only recalled two names.

Nemeth
Q. That's right, he only recalled two names--

Schwab
A. --Right--

Nemeth
Q. --but he said he saw--

Schwab
A. --and the rest he didn't pay--

Nemeth
Q. --four to six deputies--

Schwab
A. --yeah, but the rest he didn't pay attention to (inaudible)--

Nemeth
Q. --Now you're starting to misstate the record here--

Schwab
A. --No, you misstated the record--

Nemeth
Q. --oh--

Schwab
A. --by using the term recognition--

Nemeth
Q. --you're an expert, Helen, and you're starting to misstate the record a little bit. I'm just a sergeant in the Sheriff's, I'm not an attorney or anything. What I want to ask you is, is it true that you said to me earlier that you saw between four and six deputies around the inmate?

Barrett
A. I saw a group. I saw a group.

Nemeth
Q. Okay, now you say a group.

Barrett
A. I saw a group.

Schwab
A. He said that earlier.

Nemeth
Q. Okay, a group. How many's in the group?

Schwab
A. You want him to guess?

Nemeth
Q. No, I want him to answer--

Barrett
A. --I would have to guess--

Nemeth
Q. --how many's in the group?--

Barrett
A. --I would have to guess--

Nemeth
Q. I didn't say guess. Pardon me?

Barrett
A. I would have to guess 'cause at that particular time I couldn't have told you how many people were in there.

Nemeth
Q. Okay, was it more than two?

Barrett
A. It was a group. Other than the two guys that I saw, there was a group of deputies there.

Nemeth
Q. Okay, other than the two, correct?

Barrett
A. Right.

Nemeth
Q. So now we're excluding Kluth and--

Schwab
A. --No, Sergeant--

Nemeth
Q. --Sloan, correct?--

Schwab
A. --You're just trying to put--

Nemeth
Q. --'Cause he just said other than the two--

Schwab
A. --you're just trying to put words into his mouth.

Nemeth
Q. No, I'm not.

Schwab
A. Yes, you are.

Nemeth
Q. For crying out loud, he just said--

Barrett
A. --I don't know exactly how many there were--

Nemeth
Q. --aside from the other two, you said there was a group. Is that what you just said ten seconds ago?

Barrett
A. I don't know how many people was there. I went--I saw the two guys and I could not tell you how many more deputies other than that were there.

Nemeth
Q. There were more deputies other--?--

Barrett
A. --There were more deputies--

Nemeth
Q. --than those two there--?--

Barrett
A. --yes, sir.

Nemeth
Q. Was there one other? You know the difference between one other and more than one?

Schwab
A. You know what, Sergeant, that's badgering the client--

Nemeth
Q. --Uh-uh, no it is not--

Schwab
A. --I'm not gonna permit you to do that.

Nemeth
Q. I'm asking--this man's an intelligent--

Schwab
A. --You're being sarcastic--

Nemeth
Q. --deputy sheriff--

Schwab
A. --and no hearing officer--

Nemeth
Q. --and he's gonna sit here and tell me--

Schwab
A. --in this county would permit you to ask those kinds of questions. Let me just tell you, he's answering to the best of his recollection. This is a very stressful circumstance for any

deputy, especially one who's trying very hard to answer your argumentative--

Nemeth
Q. --He is--

Schwab
A. --questions.

Nemeth
Q. He's trying hard--

Schwab
A. --You're not entitled to badger him.

Nemeth
Q. I'm not badgering him.

Schwab
A. And if you can't control yourself, we'll take a break until you can.

Nemeth
Q. Oh, well, let me just explain to you something, okay, you've told me that there was a group of deputies there other than the two. Is that something that you just said to me--

Barrett
A. --Yes, it is--

Nemeth
Q. --a minute ago? Okay, what is your definition of a group? It's more than one, isn't it?

Barrett
A. Obviously, yes.

Nemeth
Q. Okay, now what you're saying is you saw additional deputies there, but you didn't recognize who they were, is that correct?

Barrett
A. I did not.

Nemeth
Q. You did not recognize them, right?

Barrett
A. Right.

Nemeth
Q. Isn't that what you--you--you've basically been saying that all along, that's no--

Schwab
A. --No--

Nemeth
Q. --no news.

Schwab
A. Recognition is what you have been saying. There's a difference between paying attention to who's there, knowing that there's a group of deputy there--group of deputies there, not paying attention to who's there and really seeing only two deputies that he singled out among the group and those were Kluth and Sloan. You're assuming that if he saw all these deputies in a lineup, he's saying he didn't recognized deputies that he had worked with. This is not a function of recognition, this is a function of his paying attention trying to absorb everything in a very brief period of time.

Nemeth
Q. I understand your point--

Schwab
A. Okay, I'm off tape right now, Sergeant, why don't you wait for your comments--

Nemeth
Q. Oh, sure.

Schwab
A. --as I did for your tape.

Nemeth
Q. Absolutely.

Schwab
A. All right.

Nemeth
Q. I understand your representative's comment. What I'm trying to get from you is what you saw there. You said you saw a group of deputies besides the two, right?

Barrett
A. Right.

Nemeth
Q. Okay, so you've seen that, okay, and you didn't know who they were, is that right?

Barrett
A. I recognized only the two deputies. It was a brief glance at these guys, I didn't study anybody. The only two that I saw briefly when I glanced over there was the two that I mentioned, Kluth and Sloan.

Nemeth
Q. Okay, but what you said earlier is you had been in that module for 45 to 60 seconds, correct?

Barrett
A. That's a guess, yes.

Nemeth
Q. Okay, and in that time you were there looking at them, you were at--in the area of where those deputies were and the inmate, was that correct?

Barrett
A. I briefly looked over there, yes.

Nemeth
Q. Okay, and then as you're leaving which is where we were, you turned around and looked back at them--at those guys you said--

Barrett
A. --I glanced at them, yes.

Nemeth
Q. Okay, and who is those guys?

Barrett
A. When--when I glanced back over there?

Nemeth
Q. Right.

Barrett
A. The same group of guys I seen, like I said, this whole thing was quick. I didn't study, I didn't look, I didn't sit there and try and--and decipher everything that went out, and this was a common inmate disturbance which many of them happen all the time and I did not spend a whole lot of time there. The--the situation was Code 4 and that was it, I was basically gone.

Nemeth
Q. Okay, so what happened, you looked--after you turned around and looked at the group, you left the module or what?

Barrett
A. I looked at those guys, I was in the door for a second or so and left. Left.

Nemeth
Q. You left the floor completely or--?

Barrett
A.   Left the floor completely.

Nemeth
Q.   All right, did you at any time hold the door open to module 4400?

Barrett
A.   I keyed the door open, I was at--

Nemeth
Q.   Okay--

Barrett
A.   --I was at that door, yes, right where that inmate was at.

Nemeth
Q.   That's on the way in, right?

Barrett
A.   That's on the way in.

Nemeth
Q.   So you keyed the door 'cause it was locked, right?

Barrett
A.   I couldn't get in, I had to key the door open.

Nemeth
Q.   Okay, and when you key it, does that mean you're locking it into an open position so it stays open?

Barrett
A.   I can't remember if I keyed it back--I can't remember if I locked it or--or kept it--

Nemeth
Q.   --Okay--

Barrett
A. --in the unlocked position--

Nemeth
Q. --and as soon as you did that, you entered the module?

Barrett
A. Yes.

Nemeth
Q. Okay, what I'm asking you is were you ever at a position where you're holding that main front door open?

Barrett
A. Yeah.

Nemeth
Q. Okay, when--when were you in that position?

Barrett
A. I went--when I went in, I seen those guys--I diverted my attention back to--back to the--the inmate that was in the storage room and pretty much stayed right, for the short period of time that I was there, right at that door.

Nemeth
Q. Okay, when you say that door, we're talking about this main entry door to the module?

Barrett
A. Right.

Nemeth
Q. Okay, and did you hold it open then or--or what did you do with that door?

Barrett
A. I held it open for--I think I held it open and it closed behind me a little bit. I don't know, I'm trying to recall this--

Nemeth
Q. --Uh-huh--

Barrett
A. --this has been a while back--

Nemeth
Q. --Sure--

Barrett
A. --I'm trying to go back--back--go back over my tracks. I was at the door, yeah, I had the door open for a split second--for seconds. I couldn't tell you how long, but--

Nemeth
Q. Did anybody go in front of you and hold the door open?

Barrett
A. Nobody went--nobody went by me, nobody came in after I did.

Nemeth
Q. Okay, but you're--what are you--I'm just trying to get a good accurate word picture of what you're doing--

Barrett
A. --Okay--

Nemeth
Q. --You're not just opening the door for yourself to go in, is that correct? You're holding the door open, is that right?

Barrett
A. No, I opened the door and went in.

Nemeth
Q. Oh, okay, and then--

Barrett
A. --I keyed the--I opened the door--I keyed the door open and went in.

Nemeth
Q. Okay, you--you never went back and held the door open for any period of time?

Barrett
A. I went back--after I came--when I went in, I momentarily looked at those guys--

Nemeth
Q. --Okay, those guys--

Barrett
A. --looked at the inmate in the storage room, went back to the door--

Nemeth
Q. --Uh-huh--

Barrett
A. --if I recall right, I may have shut the door again, went back and looked at that inmate, went back to the door, I did that two or three times and left, so I don't know which--as far as a specific amount of time of standing at that door--

Nemeth
Q. --Well, what I'm getting at is a minute ago--

Schwab
A. You know what, I don't understand your question Sergeant? Could you move your feet to your side of the table?

Nemeth
Q. Oh, sure.

Schwab
A. Thank you.

Nemeth
Q. Sorry, I'm encroaching on your foot area. What I'm asking of Richard is, okay (inaudible)

Schwab
A. Well, I don't understand what you're asking, Sergeant.

Nemeth
Q. All right, what I'm asking him is did he at any time go back to the front door of the module which is the main door to enter the module from the hallway on 4000 and hold that door open. Did you do that?

Barrett
A. What--you mean go out and hold the door by the handle?

Nemeth
Q. Well, hold it in any way open, lean your back against it--

Barrett
A. --Wedged in there, maybe, but not hold the door open, no.

Nemeth
Q. Okay.

Barrett
A. Not sit there and hold the door open.

Nemeth
Q. Okay, describe to me what wedged--what you did--what this wedged is.

Barrett
A. Partially in, partially out--partially in the module, partially out in the hallway of the 4000 floor.

Nemeth
Q. Okay, did you have your back against the door then or I'm just trying to get again--

Barrett
A. --I don't recall--

Nemeth
Q. --a picture.

Barrett
A. I don't remember if I had the back--my back is completely against the hall--

Nemeth
Q. --Okay, well tell me what this wedged is that you're saying. You want to demonstrate in that door?

Barrett
A. Sure.

Nemeth
Q. You're welcome to, go ahead.

Barrett
A. Although the door handle would be on the other side.

Nemeth
Q. Okay.

Barrett
A. Be something like this, actually it would be something like this.

Nemeth
Q. Okay.

Barrett
A. Wedged.

Nemeth
Q. Let's--let me--hold on--hold that position--let me try and describe this for the tape. What you did is you opened the door--

Barrett
A. --Now this is--I'm trying to remember back--

Nemeth
Q. --Sure--

Barrett
A. --a year--

Nemeth
Q. --Sure--

Barrett
A. --ago, so this is the best of my recollection--

Nemeth
Q. --Okay--

Barrett
A. --it could be--

Nemeth
Q. --Could be what?

Barrett
A. I'm trying to remember, you know, what happened.

Nemeth
Q. Okay, well what you did is you leaned your left shoulder against the wall of the interview room--

Barrett
A. --The door would be (inaudible)

Nemeth
Q. --okay, and is this the inside of the module here, is this the inside of the module?

Barrett
A. But the door--the handle would be on the other side. The door swings, I believe, from the other side.

Nemeth
Q. Okay, just for--to get the idea, though. Your body is inside the module then, is this room the module here? 4400?

Barrett
A. The front part, let's see, yeah, I guess, I'm guessing but--

Nemeth
Q. --Okay, this isn't happening?

Barrett
A. Not really.

Nemeth
Q. Come back down and sit down. Let me ask you this, when you--the door to the module opens outwards, correct, towards the hallway, is that right?

Barrett
A. That's right.

Nemeth
Q. Okay, did you hold that door open somehow so that the door was open--the main door into Module 4400--

Barrett
A. --With my body, probably, I didn't hold it open with--

Nemeth
Q. --With your hands, okay, and so you leaned your body in some fashion against the door--

Barrett
A. --Right--

Nemeth
Q. --holding it open? Okay, and as you were doing that that would mean you were standing in the hallway of 4000 floor, correct?

Barrett
A. Probably.

Nemeth
Q. Or some portion of you, is that right?

Barrett
A. Right.

Nemeth
Q. Okay, and let me just get it clear because a minute ago you said you went back and forth two or three times in the module, so at what point did you hold--hold the door in this fashion that we're talking about now?

Barrett
A. Two or three times probably in the course of seconds.

Nemeth
Q. In the course of seconds. You went in the module, did what?

Barrett
A. Starting from the beginning?

Nemeth
Q. Well, starting from--

Barrett
A. --I don't understand--

Nemeth
Q. --this period, where you're talking about you went back and forth and held the door open several times, you said. Starting from that period. You went in, you looked at the situation--

Barrett
A. --Right--

Nemeth
Q. --is that right? You went back and held the door open--

Barrett
A. --As soon as I seen the situation I then diverted my attention to the inmate in the--

Nemeth
Q. --Storage room--

Barrett
A. ---storage room.

Nemeth
Q. Okay, and then what?

Barrett
A. Diverted my attention back to the--the group of deputies over there.

Nemeth
Q. Uh-huh.

Barrett
A. Turned back around, I may have been in the door--from there on I went from the door maybe to where the door was, I remember glancing back over there at the--the inmate in the stor-, storage room occasionally--

Nemeth
Q. Okay, what was your purpose in going back to the door?

Barrett
A. I don't know.

Nemeth
Q. To--were you holding the door open?

Barrett
A. I was just there.

Nemeth
Q. Okay.

Barrett
A. I was just there.

Nemeth
Q. You're just there. Were you holding the door open at that point, Richard?

Barrett
A. I wasn't never old-, holding the door open, I was kind of--

Nemeth
Q. --Or wedging it--

Barrett
A. --wedging it. I was in and out near that door most of the time. How many times I went back to that door, I don't know.

Nemeth
Q. Okay, more than once though.

Barrett
A. More than once.

Nemeth
Q. Okay, what was your purpose in going back to the door and holding it open?

Barrett
A. I don't know.

Nemeth
Q. You don't know?

Barrett
A. I don't know. I was just there, like I said, I was just--the in-, the situation was Code 4, it was one of those things where I stayed there a couple of seconds and left. I don't know why I was at the door.

Nemeth
Q. Okay, I guess what I'm trying to come to a conclusion is you worked--you were working what, movement that night?

Barrett
A. Movement control.

Nemeth
Q. Okay, and do you remember what time of night this whole thing started?

Barrett
A. I have no idea.

Nemeth
Q. No, okay.

Barrett
A. That's about as, that job that I work there is an extremely busy job.

Nemeth
Q. Really busy, right?

Barrett
A. Extremely busy.

Nemeth
Q. Okay, in other words, you wouldn't waste time then for no apparent reason 'cause you're busy at your job, right?

Schwab
A. That's exactly right, sergeant.

Barrett
A. Right.

Nemeth
Q. Okay, why did--if you're saying the situation's Code 4, why are you wedging yourself in the door several times?

Barrett
A. I don't know.

Nemeth
Q. Before returning to your duty assignment?

Barrett
A. I don't know. I don't know.

Schwab
A. Perhaps to make sure he wasn't needed.

Nemeth
Q. No, he said it's Code 4--

Schwab
A. (Inaudible) return to his duties.

Barrett
Q. What--

Nemeth
Q. Code 4 in the radio code--

Barrett
A. --Sir, I--I don't know why I was there for the few seconds--

Schwab
A. --Okay, how many times are you gonna ask that question?

Barrett
A. --that I was there after that, I don't know.

Nemeth
Q. Until I--until we get the--his memory--

Schwab
A. --Until you get a different answer?

Nemeth
Q. Until we get to the truth.

Schwab
A. You don't like his answer he's given you. What answer would you like him to give?

Nemeth
Q. It doesn't matter what answer I'd like him--

Schwab
A. He will give you the answer you want, if you order him to do it.

Nemeth
Q. The only--my usual answer to this type of--

Barrett
A. --I don't know the answer to that question--

Nemeth
Q. --objection from your attorney is all I want to get to is the truth, okay--

Schwab
A. --Okay, but he's told you what his best recollection is. You don't like it. We can't control the fact that you don't like it. If you want him to say something else, tell him what you want him to say and he will say it upon your order.

Nemeth
Q. Miss Schwab, I would never do such a thing. I just want Mr. Barrett--Deputy Barrett to tell me why he's working a very busy job that night, why he goes back and forth more than once--

Schwab
A. --He did--

Nemeth
Q. --and wedges himself in that door if he's saying, Code 4, which in the radio code means no further assistance required.

Barrett
A. That's why I was only there for that short period of time.

Nemeth
Q. Why did you wedge yourself in the door several times?--

Barrett
A. I don't know, sir. I do not know, sir. I do not know why I was doing that.

Nemeth
Q. Do you do things for, you know--

Schwab
A. --Oh, sergeant--

Nemeth
Q. --like that all the time?

Schwab
A. you know, he was there just briefly to make sure he wasn't needed and he went back up to his floor. What is your problem with that?

Nemeth
Q. Well, Miss Shinee--Miss--Miss Shinee--excuse me--

Schwab
A.   --It's no problem--

Nemeth
Q.   --Miss Schwab. Miss Schwab, my purpose is this, Richard, I'm just trying to anticipate what questions the executives are gonna ask--'cause they're gonna listen to this tape--

Barrett
A.   --(Inaudible)--

Nemeth
Q.   --and they're gonna read your transcript and it's probably not gonna make a lot of sense to them--

Barrett
A.   --(Inaudible)

Nemeth
Q.   --and I'm trying to give you--

Schwab
A.   --It makes perfect sense to me--

Nemeth
Q.   --hold on, please. I'm trying to give you every opportunity to make a explanation, logical or illogical, whatever was going on in your mind why you did this.

Barrett
A.   I don't know.

Schwab
A.   Okay, let me ask--let me ask something to clarify the record. Richard, why did you respond in the first place to the All Call--or, to the additional information, whatever that was that you got when you were on your way back to your floor? Why--why would you respond to that?

Barrett
A. Why would I respond to what? The incident (inaudible)--

Schwab
A. --To the initial call, yes.

Barrett
A. Just because of the call itself, the nature of the call.

Schwab
A. Because deputies might be needed there?

Barrett
A. I can't remember if it was an All Call for deputies involved or if it was a all--if it was just inmates involved, all I know is there was a disturbance.

Nemeth
Q. You were there 'cause you thought it was your duty to go there--

Barrett
A. --Right---

Nemeth
Q. --Right?

Schwab
A. Yeah, see that's--

Nemeth
Q. --I got you, we're--we're on the same wave length. The problem I'm having though is you said you went in and you saw it's Code 4, why not just leave? Why go back and forth?

Barrett
A. I basically did, I basically did when it was Code 4. I basically did leave. I was there for an extremely short period of time. Why I was--what actions I took for standing at the door is beyond me. I have no reason why--

Schwab
A. --It was just to make sure that everything was Code 4. Is that a problem, sergeant?

Nemeth
Q. Yes, it is a problem--

Barrett
A. --I don't understand--

Nemeth
Q. --because it's not what he said. He said it was Code 4.

Schwab
A. Yeah, that is what he's saying.

Nemeth
Q. He said it was Code 4 and you go to the front door and you're hol-, you're wedging the door partially open, is that correct?

Schwab
A. Momentarily.

Nemeth
Q. And you did that more than once, correct?

Barrett
A. I did that at least twice.

Nemeth
Q. At least twice.

Barrett
A. At least twice.

Nemeth
Q. Why?

Barrett
A. Once was--I don't know why.

Nemeth
Q. Okay.

Barrett
A. I do not know why, sir. You--you--you--I cannot tell you when I don't know why.

Nemeth
Q. Was something still going on there that you were holding the door open--

Schwab
Q. --Oh (inaudible)--

Nemeth
Q. --so somebody else could come in?

Barrett
A. No, sir.

Nemeth
Q. No (Inaudible)

Schwab
A. Ask that question if that's what you want to know.

Nemeth
Q. Okay. I'll let my partner ask a couple questions.

Gjendem
Q. Yes, I have a few questions. The voice that you first heard on that--on that All Call, was it a male's voice or a female's voice or do you know?

Barrett
A. I don't know. I don't know if it was a male or female.

Gjendem
Q. Okay, and then you said you started to go downstairs.

Barrett
A. Right.

Gjendem
Q. From 9000 to 5000 where you thought the incident had occurred.

Barrett
A. Right.

Gjendem
Q. And when you got down there, did you see who was inside the booth?

Barrett
A. On 5000?

Gjendem
Q. Yes.

Barrett
A. Deputy McGroarty, I believe, was working there.

Gjendem
Q. Is that your--is that your memory of him being inside there or--

Barrett
A. --That's my memory--

Gjendem
Q. --(Inaudible)--

Barrett
A. --That's--that's who comes to mind right now that was there is Deputy McGroarty.

Gjendem
Q. Okay, did--did he say anything to you through the booth--the window or anything?

Barrett
A. No. If he did, I didn't hear him.

Gjendem
Q. Okay, but you saw him standing there?

Barrett
A. I saw him there.

Gjendem
Q. Sitting there or standing there.

Barrett
A. Yes.

Gjendem
Q. Okay, how far'd you get back towards 9000?

Barrett
A. Oh, about close to half way.

Gjendem
Q. You're back up the--

Barrett
A. --escalator--

Gjendem
Q. --the escalator then, and what did you see then? Did you see somebody running down the other side of the escalator?

Barrett
A. I didn't see anybody go down the escalator at all.

Gjendem
Q. Okay, and when you get about halfway up you hear a second call?

Barrett
A. I either heard a second call or--and I've tried to remember this, I don't know if I heard a second call or if I heard commotion downstairs, but my attention was drawn back down to 4000.

Gjendem
Q. And you turned around then?

Barrett
A. I turned around.

Gjendem
Q. And went back downstairs. And do you know who put out that second call?

Barrett
A. I have no idea.

Gjendem
Q. Male's voice, female's voice?

Barrett
A. I do not know.

Gjendem
Q. You said you heard a commotion--you believed you heard a commotion downstairs, do you know what kind of commotion it was? Like deputies running--

Barrett
A. --I don't even know if I heard a commotion, it was either--for some reason my attention was drawn back down to 4000.

Gjendem
Q. Okay, so you get back down to 4000 and you say you--I believe you said you saw a group of deputies inside there along with Sloan and Kluth.

Barrett
A. There was a group of deputies there, yes.

Gjendem
Q. Okay, you said you didn't know their names, is that correct?

Barrett
A. I just recognized Sloan and Kluth is the ones that I recognized.

Gjendem
Q. Okay.

Barrett
A. At a quick glance.

Gjendem
Q. The other members that are in that group, five to six deputies, were they all deputies?

Barrett
A. Yeah, there was--there was just deputies there.

Schwab
A. As opposed to civilians, is that--?

Gjendem
Q. Custody assistants?

Barrett
A. I didn't see no custody assistants.

Gjendem
Q. But you know they were deputies.

Barrett
A. As far as I know.

Gjendem
Q. Were they male deputies or female deputies?

Barrett
A. I--as far as I know, male deputies.

Gjendem
Q. As far as you know.

Barrett
A. As far as I know, I, you know, I mean, I know--see this--that's what I mean, I know now that they were all male deputies, I know that.

Gjendem
Q. I'm talking about back on--

Barrett
A. --At that time, I--

Gjendem
Q. --October 27th, 1994.

Barrett
A. I couldn't have been able to tell at that time that they were all male deputies. Like I said, the only, out of that quick glance that I saw--that I recognized was Kluth and Sloan.

Gjendem
Q. And where was Kluth standing at, in relationship to the inmate who was lying face down?

Barrett
A. I believe one was on the opposite of the other. Kluth was on the opposite side of Sloan, I believe.

Gjendem
Q. You're gonna have to be a little more descriptive of that. Were they standing near the head or was he standing near the feet, were they standing at the arms, were they standing near a door, the Baker Denver row gates.

Barrett
A. I believe they were closest to the gate, they were closest to the gate of the module--I mean, the gate of the entryway to that sally port. When, when you first walk into the module, that gate there, they were closer to that by--over by the bars. Over by the--

Gjendem
Q. So it would have been closer to his feet?

Barrett
A. Yes.

Gjendem
Q. Is that correct?

Barrett
A. Yeah.

Gjendem
Q. Were they standing or were they kneeling?

Barrett
A. Partially kneeling.

Gjendem
Q. Were they down on one knee? Were they down on two knees? Or were they bent over at the waist?

Barrett
A. Kind of bent-- I don't remember if it was one knee or two knees. I recall that they were not standing up. I don't know what position they were in, whether it was one knee or two knees, I know they were-- it looked like they were just getting up.

Gjendem
Q. Okay. And they stayed right that in that position?

Barrett
A. I guess, I don't know, I didn't look at them that long. I just briefly looked at them. I briefly looked at the whole thing over there.

Gjendem
Q. They had their back to you, right?

Barrett
A. I don't think so.

Gjendem
Q. Well, if you were standing at the door and you walked inside and you walked back to the door and they were at the inmates feet--

Barrett
A. Right.

Gjendem
Q. Did they have their back to you?

Barrett
A. I don't think so. I don't know. I don't think so. I think they were more or less pointed towards--facing the direction towards me.

Gjendem
Q. Okay. They turned their back on the inmate?

Barrett
A. They would have to, if, if I seen them from the front, I guess their back would have been to the inmate.

Gjendem
Q. Now the other group of, the group of deputies as you're calling, you don't know if they are male or female, but you said you do know that they're deputies--

Barrett
A. --At that time I wouldn't have been able to make a determination of either male or female. (Side B of Tape 1 ends)

Nemeth
Q. We're continuing with Subject Deputy Barrett's interview, this is tape two.

Gjendem
Q. Yes--the other group of inmates, they were facing you also?

Barrett
A. The other group of inmates?

Gjendem
Q. The--I mean the group of deputies?

Barrett
A. I don't recall what their positions were. There was like--they were just--it was just a group. I don't know where each and everyone of them was positioned.

Gjendem
Q. All right. Okay. Were any of the deputies black?

Barrett
A. I don't know.

Gjendem
Q. Any deputies Hispanic?

Barrett
A. I don't know. Romero, Deputy Romero, I guess is.

Gjendem
Q. And he was holding the gate to the actual module for the officers booth right.

Barrett
A. Yes

Gjendem
Q. Did you see any deputies or any deputies hit or strike the inmate and then throw him on the floor?

Barrett
A. No, I didn't.

Gjendem
Q. You just saw the inmate down there kind of struggling and everything? Moving around?

Barrett
A. He was moving around.

Gjendem
Q. Okay. Now I think you said that you didn't see any blood?

Barrett
A. I didn't see any blood, no.

Gjendem
Q. Did you later go back in and see where the blood was?

Barrett
A. I didn't see any blood.

Gjendem
Q. When you were there during those times--when you went down there originally from 9000 down there to see if you could help, right?

Barrett

A. I responded to see what was going on, yeah. To see what--

Gjendem

Q. --To see what was going on.--

Barrett

A. --To see if my assistance was needed, yes.

Gjendem

Q. Did you ever ask anybody if you could be of any assistance?

Barrett

A. It was obvious, it was obvious when I got there the matter was taken care of, whatever had happened. The matter was done, it was Code 4. Over. It was obvious when I stuck my head in there and--it was obvious that it was a done--whatever had occurred was over.

Gjendem

Q. Had a supervisor been there?

Barrett

A. If there was, I didn't see him.

Gjendem

Q. Did you call for the gurney?

Barrett

A. Did I call for the gurney? No.

Gjendem

Q. Did you make any notes of this incident in your deputy field notebook?

Barrett

A. Not at all.

Gjendem
Q. Okay. Getting back to Kluth and Sloan--that were standing there or kneeling there by the inmate. What did you hear them say to each other?

Barrett
A. I didn't hear--I don't even think anybody was talking. I didn't even hear any acknowledgement from anybody.

Gjendem
Q. You didn't hear anybody talking?

Barrett
A. I had--didn't hear anybody talking at all.

Gjendem
Q. The inmate either?

Barrett
A. Well, the inmate on the ground, like I said, he mumbled something, I don't know what, what it is he said, but he made a few, you know, he mumbled something. I don't know what he said.

Gjendem
Q. Did you hear any, any noises coming from down on the rows or any of the rows or anything like that?

Barrett
A. Yeah. I heard, I don't know--it was like some yelling. Some yelling was going on. And it sounded like it was coming from all the rows.

Gjendem
Q. What kind of yelling was it?

Barrett
A. Typical yelling anytime--it seems like anytime something goes on out of the ordinary the inmates are going to make noise over something. And they did.

Gjendem
Q. You couldn't discern what they were talking about or just--?

Barrett
A. Not at all.

Gjendem
Q. Once again, getting back to the door. The main door in the hallway into 4400.

Barrett
A. Right.

Gjendem
Q. If you were standing in the hallway looking at that door would the key slot receptacle be on the right-hand side or the left-hand side?

Barrett
A. Left-hand side.

Gjendem
Q. On the left-hand side.

Barrett
A. All of them are on the left-hand side.

Gjendem
Q. So the door would swing from the left to the right and the hinges would be on the right-hand side of the door?

Barrett
A. Right. No. Yeah, they would be on the right and the door opens out into the hallway.

Gjendem
Q. Okay.

Schwab

Q. Do you have a picture of the door? I mean we get this accurate.

Nemeth

We have a picture--

Schwab

There is no reason to guess--

Nemeth

Q. This is the closest I can come. Okay. It depicts the pay phone in the front hallway area from the sally port main entry area to module 4400. And you can see the--a portion of the door frame. Okay. And as your facing the module from the hallway, you're standing in 4000 hallway facing the module one gate, main door. This is the right-hand side.

Barrett

A. Okay.

Gjendem

Q. Okay. Do you, do we agree about that?

Barrett

A. I'm not too familiar with that module at all.

Gjendem

Q. Okay. In any event--

Barrett

A. That's, that's the door.

Nemeth

Q. Yeah, that's the door. And as you're facing it, this is the right-hand side. Cause we're looking at it from inside the module, so here--outside in the hallway that would be the right side. There's, there's no key lock there near the door jamb, so what you said is correct. It is on the left-hand side and the door hinges will be on this side where there is no lock box. Okay?

Barrett
A. Right.

Nemeth
Q. So, we've established that. So the door swings open this way?

Barrett
A. Right.

Nemeth
Q. Correct?

Barrett
A. That's correct.

Nemeth
Q. Okay. The lock is here, we pull the handle and the door swings outward towards the hallway. Correct?

Barrett
A. I believe so, yeah.

Gjendem
Q. Okay. Did you ever tell the sergeant or senior what you had seen inside the module?

Barrett
A. No. Uh-uh.

Gjendem
Q. Why?

Barrett
A. I didn't feel it was necessary. I didn't see anything, so it was, I didn't feel it was necessary.

Gjendem
Q. Did the inmate appear to be in any kind of pain or anything like that?

Barrett
A. To me he didn't.

Gjendem
Q. Was he yelling, "I'm hurt," or anything like that that you know?

Barrett
A. The only thing I heard him was making a few, like I said sounded to me more like he was angry than he was making gestures of pain.

Gjendem
Q. Once again, Icamen or Ickeman?

Barrett
A. Icamen.

Gjendem
Q. Yeah, Icamen. Did you see him down there?

Barrett
A. No. I don't recall seeing him at all.

Gjendem
Q. Did anybody leave the module while you were there?

Barrett
A. I don't recall anybody going by me. I don't recall anybody coming in behind me.

Gjendem
Q. You didn't see anybody leave or nobody came back in behind you.

Barrett
A. I don't remember seeing anybody leave behind me--come in behind me or go out by me. I recall just leaving. Not anybody else coming in.

Gjendem
Q. Can you describe these--this group of deputies that was there, can you describe any of them?

Barrett
A. Like I said, when I got in there, I briefly looked at that situation and diverted my attention over to another area. I, I couldn't describe any of the deputies there. Other than Romero and seeing Kluth and Sloan. Those are the only two guys that I recognized.

Gjendem
Q. But you know they were deputies?

Barrett
A. Both of them--Kluth and Sloan?

Gjendem
Q. The group of deputies?

Barrett
A. Oh, I just assume they were deputies, you know.

Gjendem
Q. In uniform?

Barrett
A. Well, I guess, yeah.

Gjendem
Q. Didn't look that close?

Barrett
A. I glanced at it. I seen, I-- No I really didn't look that close.

Nemeth
Q. Just a couple of quick things. As far as you were concerned, when you were there, you were the last person to arrive?

Barrett
A. As far as I know, yes. If my memory serves me right, yes.

Nemeth
Q. Okay. And do you also believe you were the first person to leave while you were there of the group of people that were there while you were there, do you think you were the first one to leave?

Barrett
A. I believe so.

Nemeth
Q. Okay. Do you think you spent the least amount of time there of anybody that was there while you were there?

Schwab
Q. Spent the least amount of time there of anyone while he was there?

Barrett
A. I was there seconds, I don't know how long the other guys were there, I can only say that I was here for seconds. I, I don't know how long those guys were there.

Nemeth
Q. Okay.

Barrett
A. I was there very, very--for a very short period of time.

Nemeth
Q. Okay. You responded from 9000, we've already established that, right?

Barrett
A. Right.

Nemeth
Q. Did anybody respond from 9000 after you?

Barrett
A. No. That, that--I was the last at the door and nobody came in behind me. I don't think so.

Nemeth
Q. Okay. That's fine. That's all we want to get. And were you the first person back to 9000 floor?

Barrett
A. As far as I know.

Nemeth
Q. Okay.

Barrett
A. As far as I know.

Nemeth
Q. There were other people from 9000 who had already responded, is that correct?

Barrett
A. Right.

Nemeth
Q. Okay. And they hadn't returned when you returned to 9000 floor. Is that correct?

Barrett
A. If they had, I didn't see them. I went right back to my desk as soon as I left that place.

Nemeth
Q. Okay. And your desk is on 9000 floor?

Barrett
A. Right. In the control booth.

Nemeth
Q. Right. In the control booth.

Barrett
A. Uh-huh.

Nemeth
Q. Okay. Okay. When you got there you said you saw no blood, is that right?

Barrett
A. I didn't see any blood. No.

Nemeth
Q. Okay. And do you know that a supervisor eventually show up there? To your knowledge.

Barrett
A. I don't know.

Nemeth
Q. You don't know.

Barrett
A. I don't know if a supervisor showed up or not.

Nemeth
Q. And you don't know if he did, when he did, right?

Barrett
A. Exactly.

Nemeth
Q. Okay. There was no blood there when you, when you were there? Right?

Barrett
A. I didn't see any.

Nemeth
Q. You didn't see any?

Barrett
A. I didn't observe any.

Schwab
Q. He can't say whether or not there is blood there, he can only say what he observed.

Nemeth
Q. You didn't see blood there, right?

Barrett
A. I didn't see any.

Nemeth
Q. You looked at the inmate, you looked at the looked at the area around the inmate.

Barrett
A. No, not really.

Nemeth
Q. Not really. Okay. I think previously you were saying that you noticed that his hands were behind his back, that he was wiggling or resisting--

Barrett
A. --But I didn't, I didn't (inaudible)

Nemeth
Q. --struggling I guess is the term you used?

Barrett
A. I didn't look around the floor and see if there was blood or if that's what you mean. No.

Nemeth
Q. Okay. But would you have seen a, a, an area of blood approximately 12 to 18 inches in diameter and circular shaped?

Barrett
A. Would I have seen it?

Nemeth
Q. Yes

Barrett
A.   I don't know.

Nemeth
Q.   If it had been on the floor?

Barrett
A.   I don't know.

Nemeth
Q.   Don't know?

Barrett
A.   I don't know.

Nemeth
Q.   You didn't see that though, right?

Barrett
A.   I didn't see nothing.

Nemeth
Q.   Okay. Did you ever read any of the reports that were prepared in conjunction with this event?

Barrett
A.   No sir, I didn't.

Nemeth
Q.   Nothing at all?

Barrett
A.   Uh-huh.

Nemeth
Q.   Okay. When you went in there, you just looked real briefly, I think is what you said. Right?

Barrett
A.   It was real quick. Extremely quick.

Nemeth
Q. Extremely quick?

Barrett
A. It was more of a glance.

Nemeth
Q. More of a glance?

Barrett
A. Yes.

Nemeth
Q. And that's why you say you didn't recognize the other people other than the two guys you saw?

Barrett
A. Those are the only two guys that I seen.

Nemeth
Q. Okay.

Barrett
A. Basically.

Nemeth
Q. And when you glanced in you, you determined you said, I think your quote was, "It was obvious the incident was over." Right?

Barrett
A. Right.

Nemeth
Q. Is there anything that you could tell us that indicates why it was obvious to you that that short glance the incident was over?

Barrett
A. The, the deputies were--like I said, kind of just standing there. There was no more, there was no more activity at all going on and...

Nemeth
Q. No more struggling between the deputies and the inmate?

Barrett
A. There was nothing going on. Absolutely nothing.

Nemeth
Q. Okay. That's all the questions I have.

Gjendem
Q. Do you know who the prowlers were on 4000 on that early morning shift?

Barrett
A. No, I don't.

Gjendem
Q. When you left the--your door position and you were walking back to 9000. Did you stop at the 4000 booth or anything?

Barrett
A. No, I didn't.

Gjendem
Q. Did you stop at the 5000 booth on the way back?

Barrett
A. I don't think so, no.

Gjendem
Q. You went right back to 9000?

Barrett
A. Right back to 9000.

Gjendem
Q. Okay. On your way back to 9000, did you run into Deputy [redacted]?

Schwab
Q. [redacted]?

Nemeth
Q. [redacted].

Barrett
A. I don't think so.

Gjendem
Q. How about Deputy Christolon? C-H-R-I-S-T-O-L-O-N.

Barrett
A. I don't think I ran into him either.

Gjendem
Q. You didn't run into him either.

Barrett
A. I don't believe so, no.

Gjendem
Q. Okay. How about Senior Jackson?

Barrett
A. No. I didn't run into him either.

Nemeth
Q. Did you talk to any of the deputies involved in this incident? We're talking about [redacted] Kluth, Sloan--did you talk to any of those four?

Barrett
A. I--no. I bumped into--I know Sloan, not Sloan, but Kluth has come over numerous times to the jail and picked up their checks. And other than saying, "Hey, you know, look forward to

seeing you guys coming back soon." You know, other than that, general talk, no, uh-huh.

Nemeth
Q. Okay. So you haven't talked about this case with any of those four?

Barrett
A. No.

Nemeth
Q. Have you talked about the event or your interviews that followed with anybody?

Schwab
Q. He's not--

Nemeth
Q. Other than your representative.

Schwab
Q. --that would come under attorney/client privilege, so.

Nemeth
Q. Other than your representative?

Barrett
A. No.

Nemeth
Q. No other deputies or anything like that?

Barrett
A. I mean, this, this thing has been floating around the jail for a long time so I've overheard things, you know. Other than general general gossip, no.

Nemeth
Q. Okay. I'm just talking about as to your specific, what you saw or anybody suggesting to you--

Barrett
A. --No--

Nemeth
Q. --say anything one way or another? You're shaking your head, no.

Barrett
A. No.

Nemeth
Q. Okay. That's all I have. Anything else?

Gjendem
Q. Did you even learn that any of the deputies on 9000 had used force?

Barrett
A. Did I learn if any of them had used force. No.

Gjendem
Q. At any time.

Barrett
A. Uh-huh.

Gjendem
Q. Even today, you're saying you don't know if any of the deputies on 9000 used force?

Barrett
A. I have no idea. I have no idea.

Gjendem
Q. Do you see Deputy Broad on a regular basis?

Barrett
A. I used to work with him, I don't work with him now. We work entirely different jobs, different floors, different hours.

Actually, I think we're both on days, but he works a different split like a, overlap shift, I believe.

Gjendem
Q. How about Deputy Kammer?

Barrett
A. Same thing. I don't work directly with him. Everybodys went to different job descriptions. That's all.

Nemeth
Q. Okay. Is there anything you want to add that you feel is important or relevant to this incident we're investigating that we haven't asked you?

Barrett
A. No, sir.

Nemeth
Q. Ms. Schwab, anything you'd like to add?

Schwab
Q. Not at the moment. Not without reviewing your investigative files.

Nemeth
Q. All right. We'll conclude the interview. The time is 1200 hours.

END OF INTERVIEW

ADMINISTRATIVE RIGHTS/SWORN SUBJECTS

I am **Sergeant John Nemeth** and this is **Sergeant Ernie Gjendem** of the Internal Affairs Bureau, which is commanded by Captain Norman L. Smith.

You are about to be questioned as part of an official Los Angeles County Sheriff's Department administrative investigation.

Do you have a Policy and Ethics Chapter of the Manual of Policy and Procedures? Yes [X] No [ ]
Are you familiar with its contents? Yes [X] No [ ]

You are specifically reminded that Policy and Ethics Section 3-01/040.70 requires that you make truthful statements and Section 3-01/040.75 requires that you make full and complete statements.

This investigation concerns: (Explain allegations /basic reason for investigation.) **Failure to report the use/witnessing of force**

If this were a criminal investigation any statements you made could be used against you in a court of law. Since this is an administrative investigation, neither your statements nor any information or evidence which is gained by such statements can be used against you in any subsequent criminal proceeding. However, these statements may be used against you in subsequent administrative actions.

You are being ordered to answer questions specifically related to the performance of your official duties and/or your conduct as related to your employment with the Department.

You have the right to remain silent, and you have the right to the presence and assistance of counsel. You are hereby notified that although you have the right to remain silent, failure to answer questions directly related to this administrative investigation may result in your discharge or other punitive action.

You have the right to have a representative of your choice, who is not involved in this investigation, present with you during your interviews. You may tape record this interview if you wish. **You are being ordered not to discuss the facts of this case or any of the issues discussed during your interview with anyone other than your designated representative or attorney in this matter.**

Initials [RB]

The above admonition has been explained to me and I understand its contents.

DATE: **November 14, 1995** FILE NO. **IAB 008383**

SUBJECT: (Signature) [signature] (Print) Richard Barrott

INVESTIGATOR: (Signature) [signature] (Print) JOHN A. NEMETH

DEP. JOHN BROAD
I.A.B. INTERVIEW 11-20-95

SUBJECT INTERVIEW

CASE NUMBER IAB 008383

JOHN R. BROAD

Nemeth
Q. Today's date is November 20, 1995. I'm Sergeant John Nemeth accompanied by my partner Ernie Gjendem. The time is 10 a.m. and we're present at the Internal Affairs Bureau Interview room along with Subject Deputy John R. Broad. Deputy Broad, I'm gonna ask you to spell your last name and state your employee number for the record, please.

Broad
A. Yes, sir. B-R-O-A-D. [redacted].

Nemeth
Q. Okay. And accompanying Deputy Broad, Deputy Broad this is Representative Attorney Miss Helen Schwab. Miss Schwab, I'll ask you to spell your name for the record, please.

Schwab
A. Well, this is the third time in this investigation I've had to spell my name. If you really think that's necessary then it's S-C-H-W-A-B, Sergeant.

Nemeth
Q. Okay. The reason that we do that is because these tapes are sent out to transcribing service and I'm not certain that the transcriber who transcribed the two previous tapes is gonna transcribe this one. So, they may not recognize your voice or know how to spell your name. Okay. Now, we got that out of the way. Let the record reflect, also, that this interview was initially for for 9:30 a.m. Miss Schwab did call our receptionist and explain that she would be a little late (inaudible).

Schwab
A. Sergeant, what's your point?

Nemeth
Q. Well the point is just want to get it in the record that the interview is starting half hour late.

Schwab
A. I don't believe it is starting a half hour late. It's not even 10 o'clock, yet.

Nemeth
Q. Okay. Well, it's gonna be a difference between your watch and mine --

Schwab
A. -- And the reason why we even had to reschedule this for today, sergeant, is because you two took so long re-asking the same questions over and over again in Deputy Kammer's interview that we had to reschedule Deputy Broad's.

Nemeth
Q. Okay. And Deputy Kammer--

Schwab
A. -- That was your choice.

Nemeth
Q. And that was Deputy Kammer's interview also started a half hour late due to the representative not being there on time.

Schwab
A. That's not correct. That is not correct, Sergeant.

Nemeth
Q. The record will speak for itself.

Schwab
A. Quit putting misrepresentations into the record.

Nemeth
Q. Miss Schwab you know as well as I do time speak for itself -

Schwab
A. -- That is a bald faced lie, Sergeant. Why would you lie?

Nemeth
Q. I don't lie Miss Schwa--

Schwab
A. -- You're a liar.

Nemeth
Q. Oh, please, now you're gonna start insulting me already.

Schwab
A. You want to start acting --

Nemeth
Q. (inaudible)

Schwab
A. -- you, you lying? Fine.

Nemeth
Q. We haven't even started the interview and you're already calling me names and --

Schwab
A. -- That is a lie and you --

Nemeth
Q. -- conducting yourself in an inappropriate fashion.

Schwab
A. -- You're a liar for saying that in the record. That is not correct regarding Deputy Kammer.

Nemeth
Q. It certainly is. --

Schwab
A. -- That is not correct.

Nemeth
Q. Okay.

Schwab
A. -- Regarding Deputy Kammer.

Nemeth
Q. All right. What -- what time do you say it is right now 'cause we're having a dispute about time?

Schwab
A. Sergeant, I'm not answering any of your questions.

Nemeth
Q. Oh, okay. Well, for the record Sergeant Gjendem's watch reflects it's 10 a.m. Let me see you're watch. Deputy Broad's watch says it's 9:59 a.m.

Schwab
A. You know Sergeant, you're just trying to intimidate this deputy.

Nemeth
Q. No, I'm not.

Schwab
A. Yes, you are.

Nemeth
Q. I'm trying to set an accurate record.

Schwab
A. You intentionally tried to antagonize his representative.

Nemeth
Q. If we--

Schwab
A. And that's intimidation under the government code. You are required not to intimidate any rep any subject of an investigation. Deputy Broad is the subject of the investigation. Now, move along.

Nemeth
Q. Okay. For the record we're establishing what time we're starting tape--

Schwab
A. For the record, we're here only to do the interview.

Nemeth
Q. Okay.

Schwab
A. Let's start with the interview, Sergeant.

Nemeth
Q. Right. Let's --

Schwab
A. -- You're delaying it.

Nemeth
Q. Let's start with the ground rules and those are, you don't interrupt me when I'm asking you a question or making a statement and I won't interrupt you, okay? That's just common decorum. Okay. You're representative already having difficulty following that --

Schwab
A. -- Sergeant, move along.

Nemeth
Q. -- As we can just example -- just by her interrupting me now. The normal course is I'll ask you a question and you'll respond. Don't interrupt me and I won't interrupt you're answer, okay?

Schwab
A. Sergeant, move along with the interview.

Nemeth
Q. Now, you see this is the perfect example of what not to do, how she keeps interrupting and --

Schwab
A. -- Sergeant, --

Nemeth
Q. -- (inaudible) --

Schwab
A. -- Do we need to take a break in order for you to decide when you want to start the interview.

Nemeth
Q. Well, we're ready to start Miss Schwab as soon as you stop--

Schwab
A. -- Then start with the questions. --

Nemeth
Q. -- As soon as you stop interrupting.

Schwab
A. Start with the questions, Sergeant and we'll move forward.

Nemeth
Q. Okay. And the purpose of going into the time, what time this interview is beginning, if we have to schedule you're interview again, have to continue it to another time, we want to make it sure it's understood that you were here on time. You were here before 9 a.m. Is that correct, Deputy Broad?

Broad
A. Yes.

Schwab
Q. It's Deputy Broad. Could you get that straight?

Nemeth
Q. Okay. Deputy Broad. Okay, Deputy Broad, remember back in last year approximately a year ago from today on October 27, 1994, were you working at Central Jail?

Broad
A. Yes, sir, I was.

Nemeth
Q. Okay. What shift were you working?

Broad
A. Early mornings.

Nemeth
Q. All right. Did something come to your attention that day that caused you to respond to Module 4400?

Broad
A. Yes, sir. Responded to a disturbance call.

Nemeth
Q. Okay, how -- what kind of disturbance call?

Broad
A. Disturbance involving an inmate and deputies.

Nemeth
Q. How did you receive the call?

Broad
A. To my knowledge it went over the Public Address System. I didn't hear the call clearly, though.

Nemeth
Q. Okay on the Public Address System where you were working?

Broad
A. No, sir, from a different floor.

Nemeth
Q. Okay. Where were you at when you first heard this?

Broad
A. On the 9000 floor.

Nemeth
Q. Okay. And where was this call coming from that you heard?

Broad
A. From below us. The floors below us. Initially, I wasn't, weren't sure whether it came from 5000 or 4000. Just that we heard a call go out.

Nemeth
Q. And the Public Address System (inaudible) other floors?

Broad
A. Yes, sir.

Nemeth
Q. Okay. And then what'd you do?

Broad
A. My first reaction was to look out on our floor to see if perhaps it was coming from Court Check In, which is down the hallway from us. Didn't see anything out of the normal. Looked back and saw deputies running down the escalator. Kammer and Romero and followed them.

Nemeth
Q. Just Kammer and Romero?

Broad
A. Yes, sir.

Nemeth
Q. Nobody else?

Broad
A. As far as I remember, no, Sir.

Nemeth
Q. Okay. And then what happened. So, you went after them?

Broad
A. Yes, sir.

Nemeth
Q. Did anybody follow you?

Broad
A. Not that I know of. I don't think so.

Nemeth
Q. Okay. So you ran down the escalator from 9000 floor to the --

Broad
A. -- to 5000.

Nemeth
Q. Okay. What happened then?

Broad
A. Stopped there, took a look around to see if it was coming -- coming from there. If there was a disturbance on 5000. Didn't see anything out of the ordinary and continued down to four.

Nemeth
Q. Okay. When you say we, are you referring to yourself and somebody else?

Broad
A. Yes, sir.

Nemeth
Q. Okay, who? Who else was there?

Broad
A. Kammer and Romero.

Nemeth
Q. Okay, so the three of -- of you are now together correct?

Broad
A. Yes, sir.

Nemeth
Q. Okay. So then what happens? Nothing on 5000?

Broad
A. Correct.

Nemeth
Q. And then what?

Broad
A. Then we ran down to 4000 and made entry onto the 4000 hallway and the booth officer was pointing us in the direction of Module 4400.

Nemeth
Q. Okay. And again, at this point, it's the three of you, yourself, Deputy Romero and Deputy Kammer?

Broad
A. That's correct.

Nemeth
Q. Okay. Did you see any other deputies responding when you were at 4000 (inaudible)?

Broad
A. Not in front of me, no, sir.

Nemeth
Q. Okay. Did you see anybody behind you?

Broad
A. I didn't look.

Nemeth
Q. Didn't look. Okay. So, what happens next?

Broad
A. Made entry into Module 4400 and heard yelling and hung a right around the corner and saw deputies on the ground struggling with an inmate.

Nemeth
Q. Okay. Do you remember who went into the door first to the module?

Broad
A. I believe it was Romero. Kammer was before myself and I followed.

Nemeth
Q. You were the last of the three of you in?

Broad
A. Yes, sir.

Nemeth
Q. So, as you enter Module 4400 and you go down the main sally port aisleway --

Broad
A. -- Yes, sir --

Nemeth
Q. -- You said you looked to your right?

Broad
A. Correct, we, as we came in the sally port way we hung around the right.

Nemeth
Q. Okay. All right. Would that put you in front of -- of Baker Denver row gates?

Broad
A. Yes, sir.

Nemeth
Q. Okay. And you said you saw some deputies struggling with an inmate?

Broad
A. That's correct.

Nemeth
Q. Were they standing up, kneeling down, or what were their body positions?

Broad
A. They were on the ground.

Nemeth
Q. All of them?

Broad
A. Yes, sir.

Nemeth
Q. Okay. How many deputies did you see, there?

Broad
A. Best to my recollection there was four.

Nemeth
Q. Okay. And that's four not counting yourself, Kammer or Romero who came with you? Is that correct?

Broad
A. That's correct.

Nemeth
Q. All right. And, so, what -- what were these four -- first of all who were these four deputies?

Broad
A. [redacted] Kluth, [redacted] and Sloan.

Nemeth
Q. Okay. For the tape record, [redacted] is [redacted], [redacted] is [redacted], Kluth is K-L-U-T-H, and Sloan is S-L-O-A-N. All right so those four deputies were dealing with the inmate who were struggling on the ground?

Broad
A. Yes, sir.

Nemeth
Q. Okay. When you say struggling what was he doing?

Broad
A. The inmate?

Nemeth
Q. Yes.

Broad
A. Squirming around. Appeared to be like he was trying to get to his knees, kicking his feet. --

Nemeth
Q. Well -- go ahead. --

Broad
A. -- wasn't lying there complacently.

Nemeth
Q. Okay. Did you hear the deputies telling the inmate to do anything?

Broad
A. I heard them giving him commands to put his arms behind his back.

Nemeth
Q. Do you know where his arms were?

Broad
A. When I had a chance to see it, they were underneath his body.

Nemeth
Q. Okay. And were the deputies trying to pull them out or?

Broad
A. Yes, sir.

Nemeth
Q. Who was trying to pull the arms out?

Broad
A. [redacted] and I believe it was Sloan.

Nemeth
Q. Okay. Do you remember which side [redacted] was on and what side Sloan was on?

Broad
A. [redacted] was on my left and Sloan was on my right.

Nemeth

Q. Okay. Can you -- can you explain to me in relationship to which arm of the inmate they were dealing with?

Broad

A. [redacted] was dealing with the left arm and Sloan was dealing with the right.

Nemeth

Q. Okay. Now, I'm getting a picture of what's going here, but I need you to tell me, what -- what position was the inmate's body in?

Broad

A. The inmate was lying on his stomach.

Nemeth

Q. Uh-huh. And which way was his head pointing?

Broad

A. His head was pointing towards the -- the Baker row showers.

Nemeth

Q. Okay. And his feet?

Broad

A. Feet were facing toward Able Charlie.

Nemeth

Q. Showers?

Broad

A. Yes, sir. He was facing perpendicular to them, the showers.

Nemeth

Q. Okay. All right. And so we have [redacted] dealing with the inmate's left arm --

Broad

A. -- That's right --

Nemeth
Q. -- and Sloan with the right arm? Is that correct?

Broad
A. Yes, sir.

Nemeth
Q. Okay. And what are they -- what are those two deputies bodies positions? What's [redacted] body position as he was dealing with the inmate's left arm?

Broad
A. As in kneeling or lying?

Nemeth
Q. Right.

Broad
A. I don't recall. I -- I believe he was lying. I don't know for sure.

Nemeth
Q. He was lying in a prone position?

Broad
A. Yes, sir. I just know they were digging for his -- his hands underneath his body.

Nemeth
Q. Okay. And Sloan?

Broad
A. Same thing.

Nemeth
Q. Okay. And who were the other two deputies? You said Kluth and [redacted]

Broad
A. [redacted] and Kluth. Yes, sir.

Nemeth
Q. What were they doing?

Broad
A. I didn't acknowledge what they were doing.

Nemeth
Q. But they were there? You remember seeing them? Somewhere --

Broad
A. -- Yes -- after the fact when we all stood up, I -- I acknowledged them.

Nemeth
Q. Okay. But as you arrived at the module you said you saw all four deputies dealing with the inmate, correct?

Broad
A. Correct.

Nemeth
Q. So, were they laying on him or standing or what?

Broad
A. They were down on the ground, like everybody was just trying to help each other to get the guy's arms.

Nemeth
Q. Okay. All right. Would you characterize the inmate as being pinned to the floor by the weight of the four deputies?

Broad
A. You mean, could he have easily gotten up?

Nemeth
Q. Right.

Broad
A. I don't believe so.

Nemeth
Q. Okay. Was the inmate punching at any of the deputies?

Broad
A. I don't know. I didn't see that.

Nemeth
Q. Is is true what -- what you said earlier is the arms were, were under him, right? The inmates arms were under his --

Broad
A. -- Correct. --

Nemeth
Q. -- chest or upper torso?

Broad
A. Like upper lower torso. I believe the left one was like towards his abdomen. The right one was a little higher.

Nemeth
Q. Okay.

Broad
A. Just based on his elbows.

Nemeth
Q. All right. And was? I don't want to put words in your mouth but I'm trying to get the accurate picture, was that -- did you say Sloan and [redacted] was trying to pull his arms out to get him into a handcuffing position?

Broad
A. Correct.

Nemeth
Q. Okay. And was he resisting that effort?

Broad
A. I assume so. I mean they appeared to be struggling to get his arms out.

Nemeth
Q. And you said they were ordering him to do it too --

Broad

A. -- Yes, sir. --

Nemeth
Q. -- And he wasn't complying. Is that correct? Okay. So, were his arms in that position throughout -- in other words you never saw the inmate throw a punch or any of the deputies or anything?

Broad
A. No at that point, no.

Nemeth
Q. Did you ever see the inmate throw a punch at the deputies at all?

Broad
A. No, sir.

Nemeth
Q. How about his legs. What were his legs doing?

Broad
A. His legs were kicking, squirming.

Nemeth
Q. Squirming and kicking?

Broad
A. Yes, sir.

Nemeth
Q. Okay. Did they contact any deputy? Did the inmate kick any deputy while you were there?

Broad
A. I didn't see.

Nemeth
Q. Okay. Okay. So you described to me what the four deputies were doing as you got there. What did you do?

Broad
A. As I entered, like I said, I had saw them down there and, of course, my initial instinct was to help out in any way --

Nemeth
Q. -- Sure --

Broad
A. -- There wasn't much I could do. Saw his feet kicking so I made an attempt to hold those down.

Nemeth
Q. Both of them?

Broad
A. Just, well initially I was gonna hold both of them, yes, sir and I went for his right foot.

Nemeth
Q. Okay. And where did you -- did you touch the inmate?

Broad
A. I grabbed his ankle. Yes, sir.

Nemeth
Q. His right ankle?

Broad
A. Yes, sir.

Nemeth
Q. Then what did you do?

Broad
A. Held it to the floor.

Nemeth
Q. Okay. Did somebody take care of the other leg, then?

Broad
A. Yes, sir.

Nemeth
Q. Who was that?

Broad
A. Kammer.

Nemeth
Q. Okay. And you both just held the -- the legs to the floor as (inaudible)?

Broad
A. Yes, sir.

Nemeth
Q. All right. And what did Romero do? Who was the other person that came with you.

Broad
A. I don't know. At that time, I don't know what he was doing.

Nemeth
Q. Okay. But as you arrived in the module, you saw four deputies on the inmate or could it have been three?

Broad
A. I believe it was four.

Nemeth
Q. Okay. Who was in Module 4400 control booth when you got there?

Broad
A. I don't remember seeing anybody in the -- in the control booth.

Nemeth
Q. Okay. Is it possible the booth was unoccupied when you got there?

Broad
A. I don't know.

Nemeth
Q. Don't remember one way or the other?

Broad
A. No, sir.

Nemeth
Q. Okay. And you don't know what Romero did?

Broad
A. I found out after the fact, but at that point I wasn't sure what he was doing.

Nemeth
Q. Okay. Okay. Was Romero involved with the inmate at all?

Broad
A. Not that I know of. No.

Nemeth
Q. Did you every see yourself personally Romero touch the inmate or try to help out in any way?

Broad
A. No, sir.

Nemeth
Q. Okay. All right. So, now we have six deputies there, correct? The four you already described, Sloan, Kluth, [redacted] plus yourself and Kammer. Correct?

Broad
A. Would have been a total of seven of us including Romero (inaudible).

Nemeth
Q. But you didn't see Romero dealing with the inmate, right?

Broad
A. Okay, six.

Nemeth
Q. So, six of you dealing with the inmate, correct?

Broad
A. That's correct.

Nemeth

Q. Laying hands on him trying to hold his legs down or something of that nature.

Broad

A. Yes, sir.

Nemeth

Q. Okay. So go ahead and tell me how it unfolds as -- after you grab his right ankle.

Broad

A. Grabbed his right ankle, held it to the ground prevent him from getting to his knees, looked up and about that time I had saw they were getting control of his left arm. I think in the interim I had heard somebody yell to the effect of to turn around. They were speaking to somebody. Looked up, looked around and that's when I saw the other inmate in the shower.

Nemeth

Q. Okay. What did that inmate look like?

Broad

A. Male white. That's all I remember.

Nemeth

Q. What shower was he in?

Broad

A. The Baker shower.

Nemeth

Q. Okay. Who said turn around?

Broad

A. I don't know, sir?

Nemeth

Q. Okay. Do you know why they said turn around?

Broad
A. When I looked up he was right at -- at the bars. It would've been easy for him to grab any one of the deputies or, you know, obviously for safety -- safety reasons.

Nemeth
Q. Uh-huh. So, he was inside at the Baker shower 4400 Module?

Broad
A. Yes, sir.

Nemeth
Q. Would he have to be standing on that shower bench that's in there in order to be in a position you saw him in?

Broad
A. I don't know quite honestly.

Nemeth
Q. Okay. All right. Was it a deputy that told him to turn around -- told this inmate to turn around?

Broad
A. I believe so. Yes, sir.

Nemeth
Q. Okay. Did you see any other inmates out and about?

Broad
A. No.

Nemeth
Q. Did you see any other inmates in a position where they could've seen what was going on?

Broad
A. No.

Nemeth
Q. Okay. All right. So, somebody told this inmate to turn around?

Broad
A. And to back up, yes.

Nemeth
Q. And to back away some.

Broad
A. Get back and turn around.

Nemeth
Q. He's in close proximity?

Broad
A. Yes, sir.

Nemeth
Q. Okay. Now, you said there was a potential of safety hazard because of his close proximity to where the deputies were and where this altercation was occurring? Correct?

Broad
A. I think so, yes.

Nemeth
Q. Okay. All right. Could he have reached through the bars and touch the deputy?

Broad
A. Sure.

Nemeth
Q. Okay. Was he -- can you describe -- I mean at an arms length, so obviously he was in some -- something less than an arms length away from the deputies?

Broad
A. Yes, sir.

Nemeth
Q. Can you describe how close the inmate was to him -- I think you said had the inmates head pointing towards those showers, correct?

Broad
A. Correct. I don't know the distance from his head to the gates, though.

Nemeth
Q. It would have to be even less than what it was for the deputies, correct? If the deputies are working on the inmate's arms -- I'm just trying to picture this. I'm not trying to put words in your mouth but you tell me if this is accurate. If the inmate's head is pointing towards the bars and the two closest deputies are -- are [redacted] on the left arm and Sloan on the right arm of the inmate and the arms are located lower than the shoulders and the -- the inmate that's looking at this event could reach out and touch the deputies then the inmate's head has to be virtually on the -- on the bars or near very near it, correct?

Broad
A. I don't know.

Nemeth
Q. You don't remember that part of it?

Broad
A. No. I didn't see how close he was to the bars. I just know when I looked I saw the top of that inmate's head in the shower.

Nemeth
Q. Okay. Which deputy was this inmate closer to, Sloan or [redacted]

Broad
A. The guys in the back. I don't know.

Nemeth
Q. The guys in the back.

Broad
A. Yes, sir. Kluth, that would've been Kluth and [redacted]

Nemeth
Q. Okay. I guess I'm having difficulty understanding how -- you say he laying perpendicular to the showers, right?

Broad
A. Correct.

Nemeth
Q. Which would put his -- this is Baker row shower -- that would put his head somewhere here and his feet pointing here towards Able Charlie showers, right?

Broad
A. Correct.

Nemeth
Q. Okay. If the inmate's standing inside behind the bars in the shower here, who's gonna be closer to him, Slo-- or [redacted] and Sloan or Kluth and [redacted]

Broad
A. Actually, you have that backwards, sir. It was Kluth and [redacted] up here and then Sloan and [redacted] back here. Kluth and [redacted] were by the -- by the inmate's shoulders.

Nemeth
Q. Okay. And where were -- where were -- where was Kluth and [redacted] then? Closer to the bars over here?

Broad
A. Yes, sir--

Nemeth
Q. They were towards his head even more, then?

Broad
A. That's correct.

Nemeth
Q. Okay. All right. Now I'm getting the picture. Okay. Do you remember which of those two, Kluth or [redacted] the inmate could've touched?

Broad
A. I'm sure he probably could've gotten both of them.

Nemeth
Q. Both of them?

Broad
A. Yes, sir.

Nemeth
Q. Okay. So, it was pretty much dead center on the event? This inmate.

Broad
A. I didn't see where he was standing. I just know when I looked up I saw the top of his head --

Nemeth
Q. -- Okay --

Broad
A. -- and then watched him back away --

Nemeth
Q. -- Uh-huh. --

Broad
A. -- and turn around.

Nemeth
Q. All right. And trying to figure out where this inmate was? Where was Kluth then? Was he on the same side as --

Schwab
A. -- Which -- which inmate are you referring to now?

Nemeth
Q. Oh, I'm sorry. The inmate that they're struggling with -- that -- that they're trying to subdue.

Broad
A. If I remember correctly, Kluth was on the inmate's left shoulder. He would've been on the same side as [redacted]

Nemeth
Q. Okay. And then [redacted] was on the other side?

Broad
A. Yes, sir.

Nemeth
Q. Okay. So those two individuals were closest to the Able Baker row shower bars?

Broad
A. That's correct.

Nemeth
Q. Okay. All right. Okay. So, if I can picture this correctly, basically there are three deputies on each side of the inmate at this point when you and Kammer join in? You and Kammer starting at the legs and then [redacted] and --

Broad
A. Oh, yes. Yes, sir. Yes, I see what you're saying.

Nemeth
Q. Okay. So, the right side would be yourself, on the inmate's right leg and ankle area --

Broad
A. -- Correct. --

Nemeth
Q. -- Then it would be Sloan towards the --

Broad
A. -- Correct. --

Nemeth
Q. -- lower torso.

Broad
A. That's correct.

Nemeth
Q. And then at the top would be [redacted]

Broad
A. Yes, sir.

Nemeth
Q. Okay. Then starting at the inmate's left leg it would be Kammer --

Broad
A. -- Correct. --

Nemeth
Q. -- and in the middle would be [redacted] --

Broad
A. -- Correct. --

Nemeth
Q. -- the inmate's left torso or middle section of his body and at the -- at the inmate's left side of his head would be Kluth. Is that correct?

Broad
A. Yes.

Nemeth
Q. All right. Now, did you see Kluth or [redacted] I mean, Kluth or [redacted] what they were doing up there near the inmate's head area?

Broad
A. No, sir. I didn't.

Nemeth
Q. Did you hear them yell any commands or anything?

Broad
A. No. No, (inaudible). No.

Nemeth
Q. Okay. So, you said you saw them starting to get control of the inmate's left arm?

Broad
A. Yes, sir.

Nemeth
Q. Okay. So, that -- that's gonna be [redacted] getting control of the inmate's left arm?

Broad
A. Yes, sir.

Nemeth
Q. And then what happens?

Broad
A. And then I said, I looked up, acknowledged the inmate in the shower, watched him momentarily and I looked back down they now had his right hand and handcuffed him.

Nemeth
Q. Okay. Did you tell this inmate in the shower anything yourself?

Broad
A. No, sir.

Nemeth
Q. Okay. So, then you looked back and -- and start where the inmate is being handcuffed.

Broad
A. That's correct.

Nemeth
Q. Was he still struggling at that point?

Broad
A. With his upper torso. I -- I don't know. With his feet, no.

Nemeth
Q. Okay. When you grabbed his -- his -- or held his right ankle down against the floor did you feel the inmate trying to resist that, pull away, or anything like of that nature?

Broad
A. Initially. Yes, sir.

Nemeth
Q. Initially you did?

Broad
A. Yes, sir.

Nemeth
Q. Okay. And at some point it stopped?

Broad
A. Correct.

Nemeth
Q. Can you tell me in relationship to the handcuffing, did it stop before the handcuffing or after?

Broad
A. I would assume before. Like I say, I don't know.

Nemeth
Q. Well, okay. So, you don't remember.

Broad
A. It happened so quick.

Nemeth
Q. You know, it was pretty quick. That's -- that's a good -- good point. How long did you hold his -- this ankle -- his right ankle down?

Broad
A. From the time that I made entry until the time they handcuffed him. I didn't let go until after his -- he was cuffed.

Nemeth
Q. Okay. About how many minutes or seconds do you think that was?

Broad
A. I'd say a minute, probably.

Nemeth
Q. About a minute's time.

Broad
A. Yes, sir.

Nemeth
Q. And a minute's time is, you come in the module, you quickly assess and see what's going on and you decide you're gonna hold down his right leg, right? So, that's just a split second? Is that correct?

Broad
A. Yes sir.

Nemeth
Q. And then you hold it down and until he's handcuffed. You see he's handcuffed and then you release. Is that correct?

Broad
A. Yes.

Nemeth
Q. And that time from the time you first held it to the time you released it is one minute, approximately?

Broad
A. Yes. Approximately, yes.

Nemeth
Q. All right. Did Kammer release the left leg?

Broad
A. I don't know. I'm sure that he did it.

Nemeth
Q. Okay. Well, go ahead and tell me what happens next. You released the inmates right ankle and then what happens?

Broad
A. Stood up. Realized the situation was -- was over with that he was already was handcuffed. People were beginning to rise and I stood up.

Nemeth
Q. Who was beginning to rise?

Broad
A. I believe it was Kluth. I don't know for sure.

Nemeth
Q. Uh-huh.

Broad
A. I just know that somebody across from him, like I said I believe it was Kluth, had stood up.

Nemeth
Q. Okay.

Broad
A. I had asked him, you know, "Are you okay?" He said, "I'm fine."

Nemeth
Q. All right.

Broad
A. And that's it, turned around and left.

Nemeth
Q. Okay. Did the people you came with leave with you or how did you leave?

Broad
A. I believe I was the first one out of the door? I just turned around and left once I realized there was plenty enough deputies down there. The situation was Code 4 and we were all off the floor and went back up to 9000.

Nemeth
Q. Okay. When you were holding the inmate's leg, you were holding it the whole time down against the floor?

Broad
A. Yes, sir.

Nemeth
Q. That's the right leg?

Broad
A. Correct.

Nemeth
Q. Did you ever touch any other part of the inmate's body?

Broad
A. No.

Nemeth
Q. Did you ever punch the inmate?

Broad
A. No.

Nemeth
Q. Attempt to apply any control holds or anything of that nature?

Broad
A. No.

Nemeth
Q. Okay. What was your assignment this night, 9000 somewhere?

Broad
A. That evening I believe I was working 9000 Prowler.

Nemeth
Q. Okay. Did you have a radio on you that night?

Broad
A. Probably with -- Yes, sir. -- Chances are.

Nemeth
Q. Okay. Do you remember being alerted to this incident on your radio at all?

Broad
A. No, sir.

Nemeth
Q. Okay. Did you possess OC Spray that night?

Broad
A. I think that I did. I -- I know that we got it issued. Specifically when, I don't recall.

Nemeth
Q. Okay.

Broad
A. I don't know if I had it that night. I've worn it every since I've been issued it, though.

Nemeth
Q. Okay. So, do you remember when you went through the training or anything like that? Was it before Halloween of '94?

Broad
A. No, I don't think so. I don't recall.

Nemeth
Q. So, you may have had it and you may not have had it. You don't remember?

Broad
A. Right.

Nemeth
Q. Okay. How about anybody else. Did you remember anybody else having any OC Spray there?

Broad
A. No.

Nemeth
Q. Don't remember anybody else having it?

Broad
A. I didn't acknowledge who was wearing it and who wasn't.

Nemeth
Q. Okay. Did you possess a flashlight that night or that early morning?

Broad
A. Yes, sir.

Nemeth
Q. Did you use your flashlight at all attempting to effect any patrol holds or anything of that?

Broad
A. No, sir.

Nemeth
Q. Okay. Did you -- where was your flashlight?

Broad
A. In my holster.

Nemeth
Q. On your belt?

Broad
A. Yes, sir.

Nemeth
Q. You never took it out?

Broad
A. No, sir.

Nemeth
Q. Did it ever fall out?

Broad
A. No, sir.

Nemeth
Q. Okay. Did you see the inmate -- I already asked if you seen him punched -- did you ever see the inmate kick anybody with the legs?

Broad
A. No. --

Nemeth
Q. -- with his feet?

Broad
A. No, sir.

Nemeth
Q. Do you remember what kind of footwear the inmate was wearing?

Broad
A. Bare feet.

Nemeth
Q. Bare feet at that time?

Broad
A. Yes, sir.

Nemeth
Q. Okay. All right. Now, did anybody use any OC Spray that night?

Broad
A. Not when I was present. No, sir.

Nemeth
Q. Okay. Did anybody use any flashlights to hit the inmate while you were there?

Broad
A. Not that I saw. No, sir.

Nemeth
Q. Okay. Did you -- I think we said -- let me just get it real clear so I know your involvement. You -- you had a hold of the inmate's right ankle to the floor. Correct?

Broad
A. Correct.

Nemeth
Q. With both hands or one hand?

Broad
A. Both hands.

Nemeth
Q. Okay. Did you ever do anything -- did you touch the inmate in any other way besides that?

Broad
A. No, sir.

Nemeth
Q. Okay. Did you see anybody punch or attempt a knee thrust at the inmate or anything like that?

Broad
A. No, sir.

Nemeth
Q. When you were holding the ankle, which way were you? Which way was your body facing?

Broad
A. I was facing the Baker Denver row gates.

Nemeth
Q. Okay. And were you on your knees or laying prone or how were you?

Broad
A. I believe I was on my knees.

Nemeth
Q. Okay. On your knees bent over at the waist holding the leg down?

Broad
A. Yes, sir.

Nemeth
Q. And you're facing the Baker Denver row gates.

Broad
A. Yes, sir.

Nemeth
Q. Okay. Did you see any deputies kick the inmate?

Broad
A. No, sir.

Nemeth
Q. Did you see any deputies hit the inmate with any object?

Broad
A. No, sir.

Nemeth
Q. Did you -- do you know how long this event had been going on before you got there?

Broad
A. No, sir.

Nemeth
Q. Okay. Did you later learn?

Broad
A. No, sir. I didn't.

Nemeth
Q. Okay. And after you left, do you know what happened after you left? With the inmate --

Broad
A. I don't understand --

Nemeth
Q. -- had deputies any interaction with the inmate and deputies after you left?

Broad
A. I understand that the inmate went to the clinic and then from there to LCMC.

Nemeth
Q. Okay. All right. When you left what was the condition of the inmate, as far as restraining? How was he restrained?

Broad
A. Handcuffed.

Nemeth
Q. Okay. Was he hobbled?

Broad
A. No, sir.

Nemeth
Q. By hobble, I mean, his ankle's tied together and then that attached to his handcuffs.

Broad
A. Yes, sir.

Nemeth
Q. And he was not in that condition when you left?

Broad
A. No, not that I saw.

Nemeth
Q. Okay. When you released the inmate's right leg, did anybody come in and take over your position?

Broad
A. Not that I remember.

Nemeth
Q. You just let it go--

Broad
A. -- I just -- once I saw him hooked I just, I stood up.

Nemeth
Q. Okay. Did the inmate start kicking again when you looked up?

Broad
A. Not when I was standing there. No, sir.

Nemeth
Q. Okay. How long did you stand there after you let go?

Broad
A. Not very long.

Nemeth
Q. Matter of seconds?

Broad
A. Yes, sir.

Nemeth
Q. Okay. So, when you left the inmate was not hobbled, right?

Broad
A. Yes, sir.

Nemeth
Q. Did you later learn the inmate was hobbled --

Broad
A. -- Yes, sir. --

Nemeth
Q. -- some point after you left?

Broad
A. Yes, sir.

Nemeth
Q. Okay. So, some interaction between the deputies that remained after you left and the inmate had occurred?

Broad
A. Yes, sir.

Nemeth
Q. After you left, right?

Broad
A. Yes, sir.

Nemeth
Q. You don't know what that was, do you?

Broad
A. No, sir.

Nemeth
Q. Okay. Now, you went to the academy, class what?

Broad
A. 279, sir.

Nemeth
Q. 279?

Broad
A. Yes, sir.

Nemeth
Q. And you graduated in May of '92?

Broad
A. Yes, sir.

Nemeth
Q. All right. When you went through the academy did you receive lectures on force policy of the Sheriff's Department, reporting force, witnessing force, and what your requirements are?

Broad
A. Yes, sir.

Nemeth
Q. Okay. And when you graduated from the academy, where were you first assigned?

Broad
A. Men's Central Jail.

Nemeth
Q. Okay. And you've been there every since then, correct?

Broad
A. Yes, sir.

Nemeth
Q. When you were first assigned to Men's Central Jail do you remember going through some state mandated custody training?

Broad
A. Yes, sir.

Nemeth
Q. And in that training was force a topic that was discussed?

Broad
A. Occasionally.

Schwab
A. He, he doesn't necessarily know if that was state mandated.

Nemeth
Q. Okay. Do you remember going through some type of training regarding custody before you took up a permanent assignment there at Men's Central Jail?

Broad
A. Briefings, yes, sir.

Nemeth
Q. Okay. Aside from briefings did you go through some type of 40 or 80 hour class dealing with custody issues and that type of thing?

Broad
A. Following the academy?

Nemeth
Q. Right.

Broad
A. Yes. Yes, sir.

Nemeth
Q. Okay. Now in that particular class, do you remember receiving training that had to do with force, use of force and reporting of force?

Broad
A. Yes, sir.

Nemeth
Q. Okay. And then when you went to Central Jail you attended shift briefings, correct?

Broad
A. Yes, sir.

Nemeth
Q. Is that daily that you attended those briefings or something else than that?

Broad
A. First couple of months I was at Central Jail, it was daily and then from there it turned to, I think, bi-monthly and now we don't hold briefings at all.

Nemeth
Q. At all?

Broad
A. No, sir. We haven't had briefings for quite some time.

Nemeth
Q. Okay. Do you attend some type of shift inservice training periodically?

Broad
A. No, sir.

Nemeth
Q. Nothing at all?

Broad
A. No, sir.

Nemeth
Q. Okay. When you attended briefings for the first several months, do you remember any topics of recurrent training being discussed particularly having to do with force, use of force, reporting force?

Broad
A. We had recurrent briefings covering all the various policies and --

Nemeth
Q. -- Okay. Including force?

Broad
A. Yes, sir.

Nemeth
Q. Okay. Can you tell me what you're understanding of the force policy of the Sheriff's Department?

Broad
A. My understanding is whether you use it or witness it you are obligated to make a oral notification to the immediate supervisor.

Nemeth
Q. Okay. And what's you're definition of an immediate supervisor?

Broad

A. Sergeant and above.

Nemeth
Q. Okay. And anything else? Was that, that's your understanding of it?

Broad
A. Yes, sir.

Nemeth
Q. Okay. Did you do that in this case?

Broad
A. No, sir. I didn't.

Nemeth
Q. Can you tell me why or why not?

Broad
A. I didn't feel that I used force or witnessed force.

Nemeth
Q. Okay. Well then I think the next thing is what -- what's your understanding of force on the sheriff's department?

Broad
A. I know what the definition is.

Nemeth
Q. That's fine.

Broad
A. Any force, I guess, verbatim, it reads something to the effect of controlling the movement or restraining or using physical effort to overcome the resistance of another.

Nemeth
Q. Okay. And based on that definition you just provided, are you telling me that what occurred and what you did in holding the inmate's leg down does not fit your understanding of that definition?

Broad
A. That's what I felt. Yes, sir.

Nemeth
Q. Okay. Now, does the -- so, you never reported your involvement there to anybody then, is that right?

Broad
A. Yes, sir.

Nemeth
Q. Okay. And how about later when -- when the four principle deputies who you saw there when you arrived, Kluth, [redacted] Sloan, [redacted] when they were later relieved of duty, approximately a week later, did you report your involvement to anybody or what happened there to anybody?

Broad
A. As far as supervisors?

Nemeth
Q. Yes.

Broad
A. Not that I remember, no.

Schwab
A. Do you know if anyone knew you were present in that incident?

Broad
A. Oh, sure.

Nemeth
Q. Who knew --

Broad
A. -- I knew -- I thought everybody knew we were all present.

Nemeth
Q. Okay.

Broad
A. If anything was needed we would be contacted.

Nemeth
Q. Okay. And does the force policy say that if -- if you're needed you'll be contacted?

Broad
A. No, sir.

Nemeth
Q. Okay. So, let's make sure we get an accurate understanding because when the executives listen to this tape (inaudible) I wanna give you every opportunity to explain why you thought what you were doing there, or what was going on when you arrived was not force.

Schwab
A. Okay. I think he's explained that to you, Sergeant.

Nemeth
Q. I want to give him every opportunity -- I don't want to cheat the man out of a chance to --

Schwab
A. -- Do you want him to just repeat what he already stated?

Nemeth
Q. Well I want him to say whatever he's gonna say to explain --

Schwab
A. -- Okay, I think he's --

Nemeth
Q. -- what he did. --

Schwab
A. -- already stated that to you, sergeant. --

Nemeth
Q. -- why he thought that wasn't -- why he thought that didn't qualify as a restraining force.

Broad

A. 'Cause I felt that the letter of the definition and the spirit of what I did, didn't apply to the use of force.

Nemeth
Q. Okay. So, if something were -- if an exact same incident happened today would you not report that again?

Schwab
A. (inaudible)

Broad
A. Going through all this, yes, sir.

Nemeth
Q. You would report it now?

Broad
A. -- considers that I violated something. I don't remember but. I personally don't sir.

Schwab
A. Okay. Just for the record, John. Theoretically, the department has not made a predetermination --

Nemeth
Q. -- That's right --

Schwab
A. -- as to whether you violated the policy. They probably have, at least on the surface of things they are not supposed to have made that determination.

Nemeth
Q. Nobody's made a determination, John. That's why I'm offering you every opportunity to explain what -- what was going on in your mind and I think that what you're saying is you didn't believe, based on the training you received and the event you participated in, that that qualified as a reportable incident, right?

Broad
A. Yes, sir.

Nemeth
Q. Okay.

Broad
A. Force to me is having to physically take somebody to the ground or --

Nemeth
Q. -- Uh-huh. Okay. All right. Did you see any blood when you were in the module?

Broad
A. No, sir.

Nemeth
Q. None at all?

Broad
A. No, sir.

Schwab
A. You saw your own blood.

Broad
A. My own.

Nemeth
Q. Okay. Tell me about your blood? What happened with that?

Broad
A. I had a small cut on my finger and it re-opened.

Nemeth
Q. So, this was a -- a preexisting cut and it was reopened, reinjured during the event?

Broad
A. Yes. Something I acknowledged -- I acknowledged. Like I said after the guy was handcuffed, I just realized that I had a cut on my finger. That was one of the reasons I wanted to leave, also, was to wash my hands.

Nemeth
Q. Okay. All right. But you said also in your opinion the event was concluded, that's the main reason you left, right?

Broad
A. Yes, sir.

Nemeth
Q. You wouldn't leave an ongoing fight, would you, to wash your hands?

Broad
A. No sir.

Nemeth
Q. All right. Okay. So, what kind of injury is this anyway? How did you cut yourself?

Broad
A. It's like a -- like a paper cut. I assumed I had reopened it either running down the escalator or grabbing the door. It was something (inaudible).

Nemeth
Q. All right. Was it bleeding?

Broad
A. Barely. It was stinging more than anything.

(End of Side A)

Nemeth
Q. We're continuing with the interview of Subject Deputy John Broad. Okay, Deputy Broad, did -- aside from the -- you said the very minor amount of blood coming out of your cut, was that to your finger or?

Broad
A. Yes, sir.

Nemeth
Q. Do you remember which finger?

Broad
A. Right index finger.

Nemeth
Q. Okay. Right index finger. And aside from that little bit of blood you saw. Did that blood spill onto the floor from that index finger?

Broad
A. No, sir.

Nemeth
Q. Okay. You're certain of that?

Broad
A. Oh, yes, sir.

Nemeth
Q. Was that minor of an injury, right?

Broad
A. Yes, sir.

Nemeth
Q. Okay. Did you see any blood on the floor of the module?

Broad
A. No, sir.

Nemeth
Q. Nothing at all?

Broad
A. No, sir.

Nemeth
Q. Okay, when you left do you know what the inmate's injuries were?

Broad
A. No, not when I left.

Nemeth
Q. Was the inmate complaining of any injuries?

Broad
A. No, sir.

Nemeth
Q. Did you ever, ever hear the inmate saying -- or make any --

say anything or make any kind of noises while you were there in the module?

Broad
A. No I never heard him say anything. I heard him yelling.

Nemeth
Q. Okay. What was he yelling.

Schwab
A. (inaudible)

Broad
A. Noises.

Nemeth
Q. Sounds?

Broad
A. Yes, sir.

Nemeth
Q. Nothing that you could distinguish as a word or anything?

Broad
A. No sir.

Nemeth
Q. Okay. So, you didn't see any blood and your injury didn't bleed on the floor?

Broad
A. No, sir.

Nemeth
Q. And how long were in the module all together?

Broad
A. I'd say a minute.

Nemeth
Q. So, pretty much -- you're -- that minute that you were involved in the restraining the inmates left right ankle to the floor, that was -- and you immediately left?

Broad
A. Yes, sir. Pretty sure.

Nemeth
Q. Okay. Pretty sure, is that what you're saying?

Broad
A. Yes, sir.

Nemeth
Q. Okay. Did you hear, aside from, you said that deputy -- who -- who did you hear -- you said you heard deputies giving him orders?

Broad
A. Yes, sir.

Nemeth
Q. Do you remember it was -- who that was?

Broad
A. No, sir.

Nemeth
Q. Was it more than one deputy?

Broad
A. I heard lots of shouting. I don't' know, sir.

Nemeth
Q. Lot's of shouting.

Gjendem
Q. (inaudible)

Broad
A. Yes, sir.

Nemeth
Q. What was -- can you describe what some of the words you were hearing?

Broad
A. Just, "Put your arm behind your back. Put your arm behind your back."

Nemeth
Q. Did you hear any -- anybody saying, "We're gonna break your fingers" or anything like that?

Broad
A. No, sir.

Nemeth
Q. Did you ever see any deputies do anything to the inmate whether trying some kind of control hold, punch, kick in any way shape or form touch anywhere near the inmate's groin, genital, testicle area?

Broad
A. No, sir.

Nemeth
Q. Okay. Did you have a clear view of that area?

Broad
A. Of his groin and genital area?

Nemeth
Q. Yes, huh-huh.

Broad
A. I wasn't really -- I wasn't looking.

Nemeth
Q. Okay. But in other words -- what I'm saying is you -- you described to me how your body position was and how you were facing towards the Baker Denver row gates and you were holding inmate's right ankle, you're on your knees bent over at your waist pushing down with your arms and upper body, correct? You gotta say, "Yes" because the tape --

Broad
A. -- Oh, yes. Sorry. Yes, sir.

Nemeth
Q. So, in that position, if someone were to be tempting to restrain you might have, could've been some kind of control hold by reaching in and grabbing hold of the inmate's testicles or punching in that area or something like that, you'd be able to see it, correct?

Broad
A. Yes, sir. I was looking directly. Yes, sir.

Nemeth
Q. All right. Did you see anything like that?

Broad
A. No, sir.

Nemeth
Q. Okay. And again, you said, you, left leg. Did you see anybody take up your position on the right leg before you left?

Broad
A. No, sir. Not that I remember.

Nemeth
Q. Okay. But you did later learn the inmate was hobbled, correct?

Broad
A. Yes, sir.

Nemeth
Q. So, somebody applied the hobble, right?

Broad
A. Yes, sir.

Nemeth
Q. Okay.

Schwab
A. Assuming that information was correct, yes.

Nemeth
Q. Okay. All right. Sergeant Gjendem.

Gjendem
Q. Yeah, a few questions here. When you were up on 9000, you overheard the PA announcement, you said you were (inaudible) 9000, were you with anybody at that time? Were you standing (inaudible) with anybody?

Broad
A. Not that I remember. You mean standing out on the floor?

Gjendem
Q. Yeah, were you in front of the booth or where were you exactly?

Broad
A. I think I was getting ready to go into the booth. If I remember correctly. I don't recall for sure.

Gjendem
Q. Okay. And do you remember where Romero was at at that time?

Broad
A. No, sir.

Gjendem
Q. No. And do you remember where Kammer was at that time?

Broad
A. No, sir.

Gjendem

Q. Okay. So you heard the PA announcement and then you left. Where exactly did you meet up with Kammer and Romero?

Broad
A. What do you mean met up with them?

Gjendem
Q. Well, you -- you got to the door at 4000 at the same time. Is that correct?

Broad
A. Yes, sir.

Gjendem
Q. Pretty much the same time?

Broad
A. Staggered. Yes, sir.

Gjendem
Q. Okay. But where did you kinda join in with them?

Broad
A. I'd have to say at 5000.

Gjendem
Q. At 5000. (inaudible)

Broad
A. Pretty much caught up to them. Yes, sir.

Gjendem
Q. Okay. Now where was Barrett at that time?

Broad
A. I don't know.

Gjendem
Q. No idea?

Broad
A. No, sir.

Schwab
A. Barrett is what you're saying?

Gjendem
Q. Yes, Barrett. Deputy Barrett.

Broad
A. I don't know, sir.

Gjendem
Q. You never saw him come downstairs behind you or anything like that?

Broad
A. No, sir.

Gjendem
Q. Did you ever see him at the booth later on -- I mean at the Module 4400?

Broad
A. No, sir.

Gjendem
Q. Never saw him there?

Broad
A. No, sir.

Gjendem
Q. When you got down to 4400, what was the condition of the module officer's door? Was it open? Was it standing open? Or was it closed?

Broad
A. The module officer's door?

Gjendem
Q. Yes.

Broad
A. I don't even remember acknowledging whether it was open or closed. I just came in and followed everybody to the right there.

Gjendem
Q. Romero was in front of you, correct?

Broad
A. Kammer was in front of me.

Gjendem
Q. Oh, yeah. And Romero was in front of him?

Broad
A. Yes, sir.

Gjendem
Q. Okay. And when you -- the three of you went in one behind the other, where did Romero go if you remember?

Broad
A. I found out after the fact that he went to the booth. But I didn't (inaudible) stop to take the time to watch what he was doing. I just followed everybody in and saw what was going on.

Gjendem
Q. You pretty much described what Kluth and [redacted] and [redacted] and Sloan were doing, but I'd like to talk about their positioning exactly. [redacted] was on the left side of the inmate, correct?

Broad
A. Yes, sir.

Gjendem
Q. And he was pulling on the arm to take it out from underneath him, correct?

Broad
A. Yes, sir.

Gjendem
Q. Did he -- did he have his -- was he on his knees?

Broad
A. I don't know if he was on his knees, lying flat, I just know they were on the ground.

Gjendem
Q. Did he have his -- did he have his buttocks on the dep -- on the -- the inmate that was lying there same time he was trying to pull his arm up?

Broad
A. Oh you mean sitting on the inmate and pulling his arm?

Gjendem
Q. Yes.

Broad
A. No.

Gjendem
Q. Did he have any weight on the inmate?

Schwab
A. If you know.

Broad
A. I don't know. I don't know.

Gjendem
Q. So, he was pulling on the -- pulling on the inmate's arm. Now, Kluth was also on that side further away from Kammer, correct, towards the head of the inmate, correct?

Broad
A. Right.

Gjendem
Q. Okay. Was Kluth holding him down?

Broad
A. I don't know.

Gjendem
Q. You don't know?

Broad
A. I didn't even acknowledge what those guys were doing.

Gjendem
Q. And was he on his knees or anything do -- if you know?

Broad
A. I don't know.

Schwab
A. Kluth?

Gjendem
Q. Yes, Kluth. You just know that he was towards the head or on the other side of -- hang on a second.

(Tape is turned off)

Schwab
A. -- In response to the sergeant's questions that you didn't know?

Broad
A. That's correct.

Schwab
A. (inaudible) pick up the question (inaudible).

Gjendem
Q. Okay. And then on the right side it was Sloan pulling on the arm. Is that correct?

Broad
A. Yes, sir.

Gjendem
Q. Trying to get the hand out.

Broad
A. Yes, sir.

Gjendem
Q. And [redacted] was further towards the head of the inmate?

Broad
A. Yes, sir.

Gjendem
Q. Can you tell me how Sloan was positioned? Did he have his knees on the ground or did he have his weight on the inmate?

Broad
A. I don't know.

Gjendem
Q. And [redacted]

Broad
A. Don't know what his (inaudible).

Gjendem
Q. Now, I believe you said that you were at the right ankle there holding it with two hands --

Broad
A. -- Yes, sir. --

Gjendem
Q. -- and -- and you were facing towards the Baker Denver, correct?

Broad
A. Yes, sir.

Gjendem
Q. So, that would've kinda put you more or less, if I understand this right, facing Kammer -- to the right side of Kammer?

Broad
A. I was on the right side of Kammer, yes, sir.

Gjendem
Q. So, what -- if you were looking towards the Baker Denver rows you would've been, you were looking straight? You were looking towards the Baker Denver rows?

Broad
A. If I was looking straight, I would've been looking at the Baker -- Baker shower. The Baker Denver rows would be off to our left.

Gjendem
Q. So, (inaudible) would've been in front of you, then?

Broad
A. Yes, sir.

Gjendem
Q. Okay. I think I understand now. Okay. So, did you see the left side of Sloan or did you see the right side of Sloan or did you see the front portion of Sloan?

Broad
A. It would've been the left -- left front portion of him.

Gjendem
Q. Okay. So, you saw the left side of Sloan. The left side of Sloan. Okay. And, I want to get this down now, the positioning of the feet of the inmate. How far were the feet apart? Are we talking about were they 2 feet apart, were they 3 feet apart or were they a foot apart or were they side by side?

Broad
A. At what point?

Gjendem
Q. During the struggle when you were holding him down.

Broad
A. How far they were separated --

Gjendem
Q. -- Yes --

Broad
A. -- from between Kammer and myself?

Gjendem
Q. Yes.

Broad
A. I don't know. Not very far I would think. I couldn't even guess.

Gjendem
Q. Well, were they -- were they kinda close to each other? Were they touching together?

Broad
A. No, sir.

Gjendem
Q. Was your left shoulder up against Kammer's right shoulder?

Broad
A. Not that I acknowledged? No.

Gjendem
Q. Kammer. Where was Kammer again, on the left --

Broad
A. -- On my left. --

Gjendem
Q. -- Ankle?

Broad
A. Yes, sir.

Gjendem
Q. Okay. And was Kammer also facing the Baker Denver row shower?

Broad
A. I don't know.

Gjendem
Q. You don't know?

Broad
A. No.

Gjendem
Q. Do you know which shoulder would've been closest -- what shoulder of Kammer's would've been closest to you?

Broad
A. I didn't even look off to my left. Like I said, I was looking straight ahead.

Gjendem
Q. You said you didn't see Romero down there in the module. Did you hear Romero talking to anybody inside the --

Broad
A. Not that I acknowledged. No, sir.

Gjendem
Q. Did you hear him talking to anybody, say anything? And you say -- said you got up after about one minute of holding the inmate's leg.

Broad
A. (Inaudible)

Schwab
A. (inaudible) one leg?

Broad
A. The right leg.

Gjendem
Q. How long did Kammer have a hold of the left leg, if you know?

Broad
A. I'd have to say I don't know.

Gjendem
Q. About the same?

Broad
A. About the same. I don't know sir.

Gjendem
Q. Did you see if Kammer had two hands on the inmate's left ankle or how many?

Broad
A. I didn't see how many.

Gjendem
Q. You said you had some blood on you. That was your blood?

Broad
A. Had some blood on me?

Gjendem
Q. Yes.

Broad
A. On my finger.

Gjendem
Q. On your finger?

Broad
A. Yes, sir.

Gjendem
Q. Was that -- was that your blood?

Broad
A. Yes, sir.

Gjendem
Q. Did you get any inmate blood on you?

Broad
A. No, sir.

Gjendem
Q. Later on that evening after you left the dorm, did you have a chance to speak with Kammer about the incident?

Broad
A. Not that I remember.

Gjendem
Q. Romero?

Broad
A. No, sir.

Gjendem
Q. During the time, on the date of the incident, on the 27th of October, when, when the four deputies were relieved did you talk to any of the other deputies? Any of those four deputies that were relieved, Kluth, Sloan, [redacted] and [redacted] about this incident?

Broad
A. Prior to that?

Gjendem
Q. Between October 27th and the date the deputies were relieved.

Schwab
A. What was the date the deputies were relieved?

Nemeth
Q. Well, it was approximately a week later.

Broad
A. I don't understand the question.

Gjendem
Q. Did you have an opportunity to talk -- not an opportunity -- did you discuss with Deputy Kluth, Sloan, [redacted] and [redacted] about this incident between the date of October 27th and when they were relieved?

Broad
A. Before they were relieved. Yes, sir.

Gjendem
Q. And who did you talk to?

Broad
A. Kluth.

Gjendem
Q. You talked to Kluth?

Broad
A. Yes, sir.

Gjendem
Q. What was the -- who brought the conversation up and what did you talk about?

Broad
A. I had brought it up. I don't recall if it was that day or the day after but I was moving a line of fish, new -- new inmates, down in 4400 and I merely stopped off and asked him, "Hey what happened?" And we didn't talk about specifics just basically what had taken place. He told me briefly that the -- he was trying to lock the inmate down, the fight ensued and that was it. He asked me if I was all right and went on about my business. And that was it.

Gjendem
Q. Did he tell you on that day what his participation was or what he did in the actual --

Broad
A. -- No, sir. --

Gjendem
Q. -- in the fight?

Broad
A. No, sir.

Gjendem
Q. Did you ever see a senior or a sergeant at the 4400 from the time you were there?

Broad
A. No, sir.

Gjendem
Q. Do you know -- do you know if one ever responded over there a senior or a sergeant?

Broad
A. Not while I was present.

Gjendem
Q. Did you see Kammer leave?

Broad
A. No.

Gjendem
Q. Did you see Romero leave?

Broad
A. No.

Gjendem
Q. Okay, after the inmate was handcuffed, Sloan and [redacted] got the arms out and everything and the inmate was handcuffed, where did Sloan and [redacted] go then, do you know?

Broad
A. I don't know.

Gjendem
Q. You don't know?

Broad
A. No sir.

Nemeth
Q. Okay. Deputy Broad, did you get an opportunity to review your prior statements in this case before we interviewed today?

Broad
A. Look over my statements? (inaudible)

Nemeth
Q. Okay. And did you get a chance -- did you look over anybody elses' prior statements or just your own?

Broad
A. Just my own.

Nemeth
Q. Okay. And -- let me make sure I understand you correctly. When you left the Module 4400 after having held the inmate's right leg down, did anybody leave with you or were you solo, by yourself?

Broad
A. I thought I was leaving by myself. I found out that everybody else came after me.

Nemeth
Q. Right.

Broad
A. But nobody left prior to me.

Nemeth
Q. Left prior to you -- you were the first one to leave then, is that right?

Broad
A. To the best of my knowledge. Yes, sir.

Nemeth
Q. Okay. And you didn't walk out side by side with somebody, right?

Broad
A. No, sir.

Nemeth
Q. Okay. Did you show your injury to somebody or anything like that before you left and say, "Look I gotta wash my hands. I'm leaving." or anything like that?

Broad
A. You mean, did I like show it (inaudible)--

Nemeth
Q. -- Did you tell anybody, "I'm gonna leave. I'm taking off."

Broad
A. Yes, sir.

Nemeth
Q. Who did you tell?

Broad
A. I made the comment out loud while I was standing there, "I reopened my finger, I'm gonna leave and wash my hands."

Nemeth
Q. Okay. And then you left by yourself?

Broad
A. And then I left. Yes, sir.

Nemeth
Q. Do you know how soon the very next person to leave behind you left?

Broad
A. I know Kammer was behind me. I don't know how soon thereafter.

Nemeth
Q. Okay. When was the next time you saw Kammer?

Broad
A. When I came out of the bathroom. See, I don't remember looking back as I was walking out --

Nemeth
Q. -- Uh-huh. Okay. And when you -- you're referring to leaving the bathroom is that back on your assigned area on floor 9000?

Broad
A. Yes, sir.

Nemeth
Q. Okay. And how many minutes had -- was that about since when you last saw him in the module?

Broad
A. I don't know. I have no idea.

Nemeth
Q. Less than 30?

Broad
A. Less than 30 minutes. Oh, yes, sir.

Nemeth
Q. Less than 20?

Broad
A. About a minute maybe.

Nemeth
Q. About one minute?

Schwab
A. Yeah.

Broad
A. Less than that. Like I said. You know, I found out later that he had left with me. Like I said I didn't look back and acknowledge the fact that he was following me.

Nemeth
Q. All right.

Broad
A. I went up, went into the bathroom, washed my hands, came out and went back to work.

Nemeth
Q. And when you came out he was there?

Broad
A. Yes.

Nemeth
Q. Back on 9000?

Broad
A. Yes, sir.

Nemeth
Q. Okay. Aside from talking to Deputy Kluth, before he was relieved, have you talked to any of the -- the four deputies that had been relieved since they've been relieved of duty?

Broad
A. Yes.

Nemeth
Q. Okay. Who have you talked to since? In other words after that they were relieved of duty?

Broad
A. Oh, no.

Nemeth
Q. You haven't talked to anybody since they were relieved of duty?

Broad
A. No.

Nemeth
Q. Okay. Have you talked to anybody -- any deputies -- any -- in other words not just the relieved of duties -- any deputies about this incident?

Broad
A. Sat down and held up in discussion?

Nemeth
Q. Or -- or just, you know, somebody who was involved, one of the other people who was there, perhaps, or somehow involved asked them what they remembered or go over what you were gonna say today?

Broad
A. No, sir.

Nemeth
Q. Did anybody tell you what to say today?

Broad
A. No, sir.

Nemeth
Q. Okay. Okay. Make sure just to recap again, if I understand what you told me earlier. When you arrived at the module, counting yourself and the two deputies who you arrived with, that made a total of seven deputies in the module, is that right?

Broad
A. Counting myself?

Nemeth
Q. Right?

Broad
A. It would've been eight of us. Seven of us. Yes, sir, seven.

Nemeth
Q. Okay. Was there another person there?

Broad
A. No.

Nemeth
Q. Okay. Did anybody else arrive while you were there -- any other deputies or anybody?

Broad
A. Not that I have knowledge of. No, sir.

Nemeth
Q. Well, when you got up to leave, did you see anybody else there besides the seven of you?

Broad
A. No.

Nemeth
Q. Okay. When you left did you see Deputy Barrett holding the module door?

Broad
A. No.

Nemeth
Q. Is it possible that he was there and you didn't take note of it?

Broad
A. I -- I mean -- there's no way I could've walked out the door and missed him.

Nemeth
Q. Okay. So, you're certain that you didn't see Barrett there at all?

Broad
A. If he was standing at the door, I would've saw him.

Nemeth
Q. Okay. Did you see Barrett coming down the stairs or responding to Module 4400 as you were walking out?

Broad
A. No.

Nemeth
Q. Did you see any deputies responding to the module or coming towards that area as you were leaving?

Broad
A. No.

Nemeth
Q. When you first got to the module did you hear someone say, "Go ahead and get you some." or words to that effect?

Broad
A. Oh, no, sir.

Nemeth
Q. Did you hear anybody say, in response, somebody from your group perhaps, "I'll pass on this one." something like that?

Broad
A. No, sir.

Nemeth
Q. Did you hear anybody say, "Well, relieve me, so I can get me some."?

Broad
A. Oh, no, sir. No, sir.

Nemeth
Q. Could that have been said and you not hear it?

Broad
A. No, sir.

Nemeth
Q. So, you're absolutely certain that was not said 'cause if it was you would've heard it?

Broad
A. Yes, sir.

Nemeth
Q. Okay. Now, you said when you got there you saw the four deputies laying on the inmate and that he was struggling, moving around, is that accurate?

Broad
A. Yes, sir.

Nemeth
Q. And you decided to grab his right ankle and pin it to the floor because his legs were kicking around when you were -- first responded, right?

Broad
A. Yes, sir.

Nemeth
Q. And why did -- exactly why did you grab his leg?

Broad
A. Two fold actually. 1) To keep him from kicking and 2) To prevent him from getting to his knees.

Nemeth
Q. Okay. So, then based on what you're saying is it -- is it -- it's my understanding that you were doing that to restrain him, keep him from getting to his knees and restrain his legs from kicking. Is that correct?

Broad
A. Preventative measure.

Nemeth
Q. Preventative measure. Right, to stop him from kicking, stop him from getting up, right?

Broad
A. Yes, sir.

Nemeth
Q. Did you write any reports on this case?

Broad
A. No, sir.

Nemeth
Q. Did you take any notes in your deputy field notebook or anything like that?

Broad
A. No, sir.

Nemeth
Q. Okay. Now after these deputies were relieved of duty, Kluth, Sloan, [redacted] did you find out why they were relieved or?

Broad
A. I'm certain there was some type of conversation about it in the jail.

Nemeth
Q. Hear anything about that?

Broad
A. As to the circumstances surrounding it?

Nemeth
Q. Right.

Broad
A. No.

Schwab
A. Probably the deputies weren't told either. They usually just told they're relieved. They don't give them a reason.

Nemeth
Q. Sure, but the deputies who aren't involved all the time speculate or talk about something as significant as four deputies having to be relieved for the use of force. You didn't hear anything like that, any conversation about those issues?

Broad
A. As to -- I'm sorry I don't understand.

Nemeth
Q. Okay. Did you -- In other words, did you hear anything going around -- explanation why these four deputies were relieved?

Broad
A. No. No.

Nemeth
Q. No, rumors or anything?

Broad
A. Just that there was an investigation. That's it.

Nemeth
Q. Okay. Did you -- did you ever find out later what the inmate's injuries were?

Broad
A. Yes, sir.

Nemeth
Q. What do you understand them to be?

Broad
A. Laceration, where specifically, I don't know, his forehead, head, somewhere. And groin injury.

Nemeth
Q. Groin injury?

Broad
A. Yes, sir.

Nemeth
Q. Do you know anything more specific beyond that, groin injury?

Broad
A. Specifically what, no.

Nemeth
Q. Okay. All right. When you were there did you ever see anybody hold the inmate's legs up?

Broad
A. Hold them --

Nemeth
Q. -- Hold them up above the ground?

Broad
A. No.

Nemeth
Q. When you were there is it accurate to say that as soon as you got there you saw the inmate's legs kicking, you and Kammer both pinned both legs to the floor and held them in that position throughout your time there?

Broad
A. Yes, sir.

Nemeth
Q. How far apart were his legs held when you were doing that? In other words how far apart were his ankles?

Broad
A. A couple of feet. I don't know.

Nemeth
Q. Approximately 2 feet?

Broad
A. Approximately. I don't know.

Nemeth
Q. Could they have been opened wider than the shoulders to prevent the inmate from rising?

Broad
A. No. I don't think so. No. I really didn't acknowledge how far his feet were separated.

Nemeth
Q. Okay. So, then is it possible, 'cause you didn't acknowledge it, you don't remember them being that wide open?

Broad
A. I think I would've acknowledge if it was, you know -- his feet were going past his shoulders, yeah. No.

Nemeth
Q. Okay, you don't remember them being, like, spread open like spread eagle type position?

Broad
A. No, sir. No.

Nemeth
Q. Closer together is what you remember?

Broad
A. Just enough for us to -- yes, sir.

Nemeth
Q. Approximately 2 feet apart or something like that?

Broad
A. Approximately. Yes, sir.

Nemeth
Q. Okay. All right. And do you have any idea how this inmate sustained a injury to his groin?

Broad
A. No, sir.

Nemeth
Q. You weren't there for the whole event, correct?

Broad
A. Correct.

Nemeth
Q. In other words, you got there some point after it had started, right?

Broad
A. Yes, sir.

Nemeth
Q. And when you left some things happened, at least he was hobbled assuming that he was hobbled, which the report said he was, right?

Broad
A. Correct.

Nemeth
Q. So, some things happened after you left, too, right?

Broad
A. Yes, sir.

Nemeth
Q. Okay. Did you read any of the reports that were written about this case or any of the force reports or anything like that?

Broad
A. No, sir.

Nemeth
Q. No. Okay. (inaudible)

Gjendem
Q. Yeah, with Kluth and [redacted] both on the other side of [redacted] and Sloan, I believe you said you couldn't see Kluth and [redacted] is that correct?

Broad
A. Correct.

Gjendem
Q. Were they down lower than [redacted] and Sloan, well, speaking of which, was Kluth and [redacted] down lower than [redacted] and Sloan so that you couldn't see over [redacted] and Sloan?

Broad
A. You mean were they below them?

Gjendem
Q. Yeah, were they below them?

Broad
A. I don't think so.

Gjendem
Q. All right, but I'm saying--

Broad
A. I think everybody was pretty well, well standard.

Gjendem
Q. So is it possible, then, that Kluth and [redacted] could have pushed the inmate and you not seen it, then.

Broad
A. I would have seen it, I think.

Gjendem
Q. You think you would have seen it?

Broad
A. Yes, sir.

Gjendem
Q. And did you see that?

Broad
A. No, sir.

Gjendem
Q. So, we'll move on to the right ankle for one minute. Do you know how long [redacted] and, [redacted] and Sloan had been pulling on the arms of the inmate, trying to get them out?

Broad
A. No sir.

Gjendem
Q. Was it, probably at least a minute, though, correct, because you guys (inaudible). Pardon?

Broad
A. At least, I would say, yes.

Gjendem
Q. Probably longer than that, though.

Broad
A. I would say so.

Schwab
A. He can't speculate as to the what went on before he got (inaudible).

Gjendem
Q. The struggle that [redacted] and Sloan were having with the arms trying to get them out from underneath him, was it a pretty good struggle, in your opinion?

Schwab
A. What do you mean, pretty good struggle?

Gjendem
Q. I mean were they, were they putting a lot of exercise, were they getting a lot of, a lot of their weight and a lot of their strength to pull on the inmate's arms out from underneath him.

Broad
A. (Inaudible) they were exerting, the (inaudible) obviously to get his arm out, yeah, it wasn't no easy task.

Gjendem
Q. So, I just wanted to confirm one thing here, just want to shore up one thing and that is the referring to witnessing of force, did you report to anybody you witnessed this force, what you saw, [redacted] and Sloan do?

Broad
A. No.

Gjendem
Q. You did not.

Broad
A. No.

Gjendem
Q. Okay. Go ahead.

Nemeth
Q. Do you know how your name came up, how you came to be here today?

Broad
A. No, sir, I don't.

Schwab
A. Stop, please, what--

Nemeth
Q. But, in other words, do you know it came out, how somebody discovered you were there?

Broad
A. No, sir.

Nemeth
Q. You know.

Schwab
A. Who discovered he was there, all the deputies were there in (inaudible).

Nemeth
Q. Right, so in other words, did your name appear in any reports indicating that you were there, present at this incident?

Broad
A. Not that I know of.

Nemeth
Q. Okay, and did, did any of the deputies who were involved tell the sergeant that you were there?

Broad
A. I don't know, not that I know of.

Nemeth
Q. Not that you know of?

Broad
A. No.

Nemeth
Q. Okay, when you talked to Kluth--

Schwab
A. Now, were you there when the deputies reported this force to their sergeant?

Broad
A. No, I wasn't.

Schwab
A. You don't know what was said, correct?

Nemeth
Q. And to your knowledge, nobody told any supervisor that you were there, right, to your knowledge?

Schwab
A. Well, obviously, somebody did, because he's here today.

Nemeth
Q. Right, I just want to get his knowledge of it.

Broad
A. I don't know what they said.

Nemeth
Q. Okay. Were you ever contacted by the supervisor or anything at the jail asking about your involvement in this incident?

Broad
A. No, sir.

Nemeth
Q. Were you ever asked about it?

Broad
A. No, sir.

Nemeth
Q. Okay. Did you ever, at any time, prior to speaking to the investigators from Internal Criminal's Investigations Bureau, speak to a supervisor about this incident that we're talking about here in module 4400?

Broad
A. No, sir.

Nemeth
Q. Okay. When you talked to Kluth the day after, I think it is, when you brought a line of inmates to his module and saw him there, did you ask Kluth, did you report this incident to a supervisor, or did that topic come up at all in your conversation?

Broad
A. No, sir.

Nemeth
Q. Didn't come up?

Broad
A. No, sir.

Nemeth
Q. Okay. All right. So, when you were first talked to, and it was in December, right, of 90, '94, is that about right?

Broad
A. Yes, sir.

Nemeth
Q. Okay, that was when Sergeant Hamilton came up to speak to you?

Broad
A. Yes, sir.

Nemeth
Q. Do you know how it was that Sergeant Hamilton decided to interview you?

Broad
A. No, sir.

Nemeth
Q. You have no idea, right?

Broad
A. No, sir.

Nemeth
Q. 'Cause as far as you knew, your name was not even connected with this incident, right?

Schwab
A. Now, that's, that's not true. He was there when everybody else was there, so as far as he knew, everybody knew he was there, so in so far as why (inaudible) obviously (inaudible).

Nemeth
Q. Well, do you know how it is that your name came to be there, I mean, did anybody tell you that they informed the supervisor you were there?

Broad
A. No.

Nemeth
Q. Okay. When you later learned these four deputies, Kluth, Sloan, [redacted] and [redacted] were relieved of duty, did you ever, the thought ever enter your mind that you might want to tell a supervisor, yourself, personally, that you were present at that event?

Broad
A. No.

Nemeth
Q. No? Why not?

Schwab
A. No, (inaudible) know why.

Nemeth
Q. Well, let him answer.

Schwab
A. This just calls for speculation.

Nemeth
Q. No, no, it doesn't, I'm asking him his frame of mind, he made a conscious decision--

Schwab
A. No, no.

Nemeth
Q. --to not say anything.

Schwab
A. No, no, no. That's not correct. That's your interpretation. What he said to you is that it didn't occur to him to report it.

Nemeth
Q. Okay.

Schwab
A. Obviously, the deputies knew he was there, because there were seven deputies there along with him.

Nemeth
Q. Okay. Why didn't you report to the supervisor after these four people were, relieved of duty?

Broad
A. Because I personally felt that everybody knew that I was there, and that if anybody needed anything, I would be contacted, because I (inaudible). Just another--

Nemeth
Q. You felt that everybody knew that you were there that needed to know?

Broad
A. (Inaudible).

Nemeth
Q. I mean like supervisors and that type of thing?

Broad
A. Yes, sir (inaudible).

Nemeth
Q. Do you know how supervisors were made aware of your presence?

Broad
A. No, sir.

Nemeth
Q. In other words, did you ever follow up with these deputies who knew you were there, the other six, and say, did you talk to

Sergeant and tell him I was there, or did you, or did you, or did you, did you ever do anything like that?

Broad
A. Yes, sir.

Nemeth
Q. And who did you speak to?

Broad
A. Sloan.

Nemeth
Q. And what did he say?

Broad
A. No. I seen him, like I said, later on, and he didn't (inaudible), you know.

Nemeth
Q. And, you spoke to Sloan after the incident?

Broad
A. Yes, sir. That same evening, early morning, I think so, yeah, I don't know.

Nemeth
Q. That same day or the day following, is that what you're saying?

Broad
A. Yes, sir.

Nemeth
Q. And, there was a conversation between you and Sloan?

Broad
A. Asked him if I needed to do anything.

Nemeth
Q. Meaning what?

Broad
A. The paperwork, and how--

Nemeth
Q. Any reports, things of that nature?

Broad
A. Yes.

Nemeth
Q. And Sloan said no?

Broad
A. Correct.

Nemeth
Q. Okay, but the question I asked you was, did you ask Sloan, did you tell the sergeant I was there, did you ever ask Sloan that, that question?

Broad
A. No, sir.

Nemeth
Q. Did you ever ask any of the other deputies who were there, that question, if they notified a supervisor of your presence?

Broad
A. No, sir.

Nemeth
Q. Never asked that question, okay. So, is there anything that you did to give you the indication that a supervisor or the administration of the jail knew you were present at this incident?

Broad
A. I personally did.

Nemeth
Q. Or that you caused somebody else to do?

Broad
A. I don't understand.

Nemeth
Q. Is there any, well, first of all, let's go to what you're saying. Is there anything you personally did to cause any supervisor or any part of the administration of the jail to know that you were present at this event?

Broad
A. No.

Nemeth
Q. Was there anything you were asked, any deputy, or anyone to do to make such a notification on your behalf?

Broad
A. No.

Nemeth
Q. And why not? That's the question. That's what the supervisors are gonna ask--

Schwab
A. Do you want to him to answer that again?

Nemeth
Q. Yes.

Schwab
A. Again--

Broad
A. It wasn't done to see, or anything of that nature, I felt that everybody was aware of my presence, and that if anybody needed a statement, of force or anything, that (inaudible).

Nemeth
Q. Okay, and, and to follow up on that you asked Sloan, do you need anything from me, right?

Broad
A. Yes, I did.

Nemeth
Q. Did you ask anybody else?

Broad
A. No.

Nemeth
Q. The only two people then, you have conversations with were Sloan and, and Kluth?

Broad
A. Yes, sir.

Nemeth
Q. When you talked to Sloan, what else was your conversation besides that?

Broad
A. Nothing.

Nemeth
Q. That's it, okay. You didn't ask about what happened to the inmate, or anything like that?

Broad
A. Not that I remember, no.

Nemeth
Q. Okay. Sergeant Gjendem?

Gjendem
Q. Yes, one last thing. I understand you didn't see who placed the handcuffs on the inmate, but do you know who's handcuffs went on the inmate?

Broad
A. No, sir, I don't.

Gjendem
Q. No idea.

Broad
A. No idea.

Gjendem
Q. Were they yours?

Broad
A. No, sir, they weren't.

Gjendem
Q. Did you see any, did you see [redacted] attempt to knee thrust the inmate?

Broad
A. No, sir.

Gjendem
Q. If he would have done that, would you have been in a position to see it while you were there?

Broad
A. Yes, sir.

Gjendem
Q. And you didn't see it?

Broad
A. No, sir.

Gjendem
Q. So, it didn't happen when you were there, as far as you're concerned?

Broad
A. That's correct.

Gjendem
Q. I think we'll ask that again, just to get it really crystal clear, you didn't see any deputies punch, or knee or kick, or do anything to this inmate while you were there, right?

Broad
A. That's correct.

Gjendem
Q. All you saw was the pulling of the arms, correct?

Broad
A. Correct.

Gjendem
Q. And all that, that was being done by Sloan and [redacted] right?

Broad
A. Correct.

Gjendem
Q. What was Kluth and [redacted] doing?

Broad
A. I don't know.

Gjendem
Q. Is it possible that they were applying a choke hold or something while you didn't know what they were doing?

Broad
A. I don't know, I don't know.

Gjendem
Q. Okay, now, so they could have, is that right?

Broad
A. I, I--

Gjendem
Q. Here's what I'm trying to do...

Schwab
A. But anything's possible, Sergeant, is that what you want to know?

Gjendem
Q. No, what I want, what I'm asking John is, a minute ago, I asked you did [redacted] attempt a knee thrust or anything of that nature when you were there, and you said no. And, I asked you what, exactly, were they doing when you were holding the ankle down,

Kammer was holding an ankle down, [redacted] and Sloan were pulling the arms. I asked you what were Kluth and [redacted] doing, you said you don't know.

Schwab
A. Okay but he didn't see either one of thems knees thrust to the inmate.

Gjendem
Q. Okay, but you didn't know what they were doing either, right?

Broad
A. Now, you ask me if I had seen them (inaudible).

Gjendem
Q. Right, okay, then I asked you if you knew what they were doing and you said, no, you didn't.

Broad
A. No. (Inaudible).

Gjendem
Q. But do you know what, what they were doing as (inaudible) forward, right?

Broad
A. Right.

Gjendem
Q. So, you weren't watching him?

Schwab
A. (Inaudible).

Gjendem
Q. Anything you want to add in at this point that you feel is important or relevant that we haven't covered at this point, to this point in your interview?

Broad
A. No, sir.

Gjendem
Q. Okay.

Schwab
A. Before we go off tape, let me state for the record that the tape (inaudible) 12 minutes before we started, during which during which Sergeant showed Deputy Broad the administrative rights which he needed time to look over. Also they asked him numerous questions regarding what they call biographical information, the failure to go on tape the moment we walked in the room allowed Sergeant Nemeth to make what I term to be a disingenuous representation as to when the interview started. We'll be happy to forego any future questioning on biographical data, (inaudible), things of that nature so that we can be accurate as to when the interview actually starts.

Nemeth
Q. Well, actually, we could begin those prior to a representative's arrival, too so that--

Schwab
A. No, you can't do--

Nemeth
Q. (Inaudible).

Schwab
A. Any questions prior to my arrival, so we'll just forego that process period. Unless you want to stop misrepresenting when the interview starts.

Nemeth
Q. We'll, we'll just tape record that part of it, I think that will work, cover the bases.

Schwab
A. That works for me Sergeant.

Nemeth
Q. Okay, you have anything else you want to add or anything, John?

Broad
A. No, sir.

Nemeth
Q. We'll, conclude the interview, time is 1120 hours.

END OF INTERVIEW

ADMINISTRATIVE RIGHTS/SWORN SUBJECTS

I am **Sergeant John Nemeth** and this is **Sergeant Ernie Gjendem** of the Internal Affairs Bureau, which is commanded by Captain Norman L. Smith.

You are about to be questioned as part of an official Los Angeles County Sheriff's Department administrative investigation.

Do you have a Policy and Ethics Chapter of the Manual of Policy and Procedures? Yes [✓] No [ ]
Are you familiar with its contents? Yes [✓] No [ ]

You are specifically reminded that Policy and Ethics Section 3-01/040.70 requires that you make truthful statements and Section 3-01/040.75 requires that you make full and complete statements.

This investigation concerns: (Explain allegations /basic reason for investigation.) **Failure to report the use of force and/or failure to report the witnessing of force.**

If this were a criminal investigation any statements you made could be used against you in a court of law. Since this is an administrative investigation, neither your statements nor any information or evidence which is gained by such statements can be used against you in any subsequent criminal proceeding. However, these statements may be used against you in subsequent administrative actions.

You are being ordered to answer questions specifically related to the performance of your official duties and/or your conduct as related to your employment with the Department.

You have the right to remain silent, and you have the right to the presence and assistance of counsel. You are hereby notified that although you have the right to remain silent, failure to answer questions directly related to this administrative investigation may result in your discharge or other punitive action.

You have the right to have a representative of your choice, who is not involved in this investigation, present with you during your interviews. You may tape record this interview if you wish. **You are being ordered not to discuss the facts of this case or any of the issues discussed during your interview with anyone other than your designated representative or attorney in this matter.**

Initials [initials]

The above admonition has been explained to me and I understand its contents.

DATE: **November 20, 1995** FILE NO. **IAB 008383**

SUBJECT: (Signature) [signature] (Print) JOHN R. BROAD [redacted]

INVESTIGATOR: (Signature) [signature] (Print) JOHN A. NEMETH

DEP. JOHN BROAD
I.C.I.B. INTERVIEW 12-21-94

WITNESS INTERVIEW

CASE NUMBER 494-00023-2300-444

JOHN BROAD

Hamilton
Q. ...[Dec]ember 21, 1994. It's approximately 1118 hours. We're here at Criminal Court Building, up in Special Investigations Unit on the 17th Floor. I'm here getting ready to interview Deputy John Broad, employee number [redacted] We're going to be discussing an incident that occurred October 27, 1994, at Men's Central Jail in Module 4400 during the early morning shift. This investigation's being conducted under ICIB file number 494-00023-2300-444. I'm Sergeant Eric Hamilton from ICIB. Okay, Deputy Broad, prior to coming on tape, did we discuss anything?

Broad
A. Yes, sir, just the procedure of the interview would be recorded and that you wanted the facts of the incident.

Hamilton
Q. Okay, and that we, I did somewhat tell you why we're investigating this case, correct?

Broad
A. Yes, sir.

Hamilton
Q. Okay, I didn't threaten you or do anything inappropriate, did I?

Broad
A. No, sir.

Hamilton
Q. Okay. Alright, are you familiar with the incident on October 27th in Module 4400 involving an inmate and a deputy?

Broad
A. Yes, sir, I am.

Hamilton
Q. Okay, can you tell me about that?

Broad
A. Specifically I don't what resulted as I, I mean, don't know why the incident had started or initiated.

Hamilton
Q. Okay.

Broad
A. Other than the fact that I had responded.

Hamilton
Q. Okay. Can you tell me what happened, once you responded?

Broad
A. I was up on 9000, heard some sort of yell similar to, sounded like 415 or something. Initially, I thought it was on our floor, so I ran out to the hallway. Didn't see anything there, so everybody start to run downstairs. Was, I believe, Romero, Kammer, myself, and we ran down to 5000 and stopped there and looked around and didn't see anything, and then continued down the floor. At which point the booth officer, I believe it was Deputy Howard, was pointing 44. We ran down to 4400 and entered the module. Came in the module and saw deputies on the ground, appeared to be struggling with an inmate.

Hamilton
Q. Okay. Then what happened?

Broad
A. Saw them on the ground. My, obviously, my first initial instinct was to help them subdue the inmate. I was going to down to help, but there was, he was basically covered. There was no, no room for anybody else to, to help out. So, I stood there momentarily and then I observed his feet and made a, made a movement to hold his feet to prevent him from, from kicking. At that point, once I made contact with his feet, it became apparent that the inmate had become, he was handcuffed and the situation was basically over. At that point, I let go of his feet. I stood up, stood there for a second, and realized that I had cut my finger on, I'm assuming on the way, running down there, running it along the

handrails of the escalator, on a door, or something, and from that point my, my attention became concerned with the, the cut on my finger. The situation was already Code 4 and I wanted to go wash my hands. There was enough people down there, so I, I left at that point.

Hamilton
Q. Anything else happen?

Broad
A. No, that's, I went back upstairs and washed my hands and that was it. Came back out and by that time everybody else had returned to the floor.

Hamilton
Q. Okay. Alright, let's back up a little bit. You said that initially you heard what appeared to be a yell, correct?

Broad
A. Yes, sir.

Hamilton
Q. Okay. Could it possibly have been an announcement over the PA system versus...

Broad
A. It could have been.

Hamilton
Q. ...a yell or...

Broad
A. I just heard something, I mean, that, out of the ordinary because it was quiet at the time and I, we, we just heard this loud holler. Like I said, it sounded something like 415.

Hamilton
Q. Okay.

Broad
A. I didn't know where the noise was coming from, like I said, so I ran out to the, to the floor. I was standing, I believe, by the, the, the booth, the door on 9000.

Hamilton
Q. Okay.

Broad
A. And went out to the, the hallway there, the main hallway to look and see if there was a fight there, or in court check-in, or what.

Hamilton
Q. Okay.

Broad
A. And everything was quiet on our floor.

Hamilton
Q. Okay, so let me, let me back up, too. Where were you assigned on that night?

Broad
A. I was 9000 prowler, I believe.

Hamilton
Q. Okay. And you ser-, said that you heard this yell. Was, was this yell or this announcement, if it occurred over the PA system, was it on your floor? Did it come from your floor?

Broad
A. No.

Hamilton
Q. Okay. So, you ran down to 9000 which is one floor, or you ran down to 5000...

Broad
A. 5000.

Hamilton
Q. ...which is one floor below...

Broad
A. Yes, sir.

Hamilton
Q. 9000.

Broad
A. Right.

Hamilton
Q. And did you make contact with the booth officer of did, what did you do on that floor?

Broad
A. We, we made a stop. We looked around. Saw that everything was quiet. The next thing I know, everybody's running down 4000 and I...

Hamilton
Q. Okay.

Broad
A. ...basically followed.

Hamilton
Q. Okay, when you say "everybody," who are you talking about?

Broad
A. It was, I believe, Kammer, Romero...

Hamilton
Q. Okay.

Broad
A. ...and myself.

Hamilton
Q. Okay. So, you just followed Kammer and Romero down to 4000 which is...

Broad
A. Yes, sir.

Hamilton
Q. ...two floors below 9000.

Broad
A. That's correct.

Hamilton
Q. So you have 9000 floor, below that you have 5000 floor, and below that you have 4000 floor.

Broad
A. That's correct.

Hamilton
Q. And then you guys did what?

Broad
A. We ran onto the floor of 4000 and as we, we approached the booth, the booth officer was pointing in the direction of Module 4400 and, and stating, "44, 44."

Hamilton
Q. Alright. Are you sure that you guys actually contacted the booth officer, or did you maybe heard something to lead you to believe, or did you actually hear this deputy saying 4400?

Broad
A. I actually heard her saying 4400. I saw her mouthing 44.

Hamilton
Q. Okay. Then you guys went to 4400. What order were you in? Who was first, who was second, who was third?

Broad
A. I believe it was Romero, Kammer, and myself.

Hamilton
Q. Okay. Was the door open, or did you have to key it?

Broad
A. I don't recall.

Hamilton
Q. Okay.

Broad

A. I just, I, I'm, I'm assuming it was open because we just went straight in.

Hamilton

Q. So when you guys went straight in, who did you see that was already there besides the deputies from 9000?

Broad

A. Just the deputies that were struggling with him on the ground. At that point, I didn't know who was struggling with him. I found out later...

Hamilton

Q. Okay, when you say...

Broad

A. ...who...

Hamilton

Q. ...later, what do you mean?

Broad

A. After the fact. After the situation was all done.

Hamilton

Q. Okay. Are you talking about, once you got up off the guy's legs?

Broad

A. Correct.

Hamilton

Q. Okay, so who was there?

Broad

A. Deputy Kluth, Deputy [redacted] Sloan, and [redacted]

Hamilton

Q. Okay, so the...

Broad

A. ...along with Romero, myself, and Kammer.

Hamilton
Q. Okay. So when you went in there initially, what did you see?

Broad
A. I saw deputies on the ground struggling with an inmate. I just saw a mass of tan and green...

Hamilton
Q. Okay.

Broad
A. ...on, on the inmate.

Hamilton
Q. Okay.

Broad
A. And hollering for him to put his hand behind his back.

Hamilton
Q. Okay. Do you recall what position the deputies were in and what position the inmate was in? Was he, were, were they standing up? Were they on the floor? Were they up against the bars? Where, where exactly in...

Broad
A. At that point, everybody was on the ground. They were all on the ground. The situation appeared to be coming to an end.

Hamilton
Q. Okay. Were the deputies struggling with this inmate?

Broad
A. At that point, I think they were still struggling to get his one arm behind his back because I kept hearing them say something to the fact that, "Put your arm behind your back."

Hamilton
Q. Okay.

Broad
A. I heard that said a couple of times and that was it. By then

it was, it was a done, it was all over.

Hamilton
Q. Okay, where were the deputies positioned? In relation to this inmate?

Broad
A. On him?

Hamilton
Q. Were they on the side of him? Were they on top of him? Were they in...

Broad
A. They were on top of him.

Hamilton
Q. ...front of him? Okay, all the deputies were on top of him?

Broad
A. Yes, sir.

Hamilton
Q. Okay, how were they positioned?

Broad
A. I would say around him. Like at, at...

Hamilton
Q. Listen to me (inaudible)...

Broad
A. ...starting at the head and going around almost clockwise.

Hamilton
Q. Okay. Let me just make it easier. Was there a deputy on the right side of the inmate?

Broad
A. Yes.

Hamilton
Q. Okay. What deputy was that?

Broad
A. I don't recall.

Hamilton
Q. When they, the deputy on the right side, was he, was he standing on top of the inmate? Was he...

Broad
A. No.

Hamilton
Q. ...was his knee on top of the inmate? Was his hands on top of the inmate?

Broad
A. Everybody was pretty much laying down on him.

Hamilton
Q. Okay.

Broad
A. Laying down, they were on their stomachs with him underneath and wrestling to get, get control of his hand.

Hamilton
Q. Okay. Now three deputies are laying on top of one inmate like that or...

Broad
A. Four, I think, is, is what it appeared to be at the end.

Hamilton
Q. Okay. Go ahead.

Broad
A. I, I think it was, if I recall correctly, when everybody was standing there, it was, it was [redacted] Kluth and, and, I think, [redacted] and Sloan were, were on the other side.

Hamilton
Q. Okay, and what, when you say...

Broad
A. Almost...

Hamilton
Q. ...other side, which...

Broad
A. The, the right side of me.

Hamilton
Q. Okay. Let's, let's get a clear understanding because I'm not really for sure what you're talking about. When you went into the, the module...

Broad
A. They would have been on the right side of the inmate.

Hamilton
Q. Okay. Let, let me just start...

Broad
A. Okay.

Hamilton
Q. ...back. When you went into the module, where were they positioned? To the right or to the left of the control booth door? Where were they positioned?

Broad
A. As you're entering the module...

Hamilton
Q. Right.

Broad
A. ...and you're approaching the control booth, they were on the right.

Hamilton
Q. Okay, which is, were they closer to the door itself, or were they closer to the row gate?

Broad

A. They were away from the row gate. They were, they were back. There's a little wall there that, I believe, as you enter the sally port it, it kind of breaks off to the right and they were right there by the wall.

Hamilton

Q. Okay, but there's like a storage room there. There's a door.

Broad

A. I believe so. Yes, sir.

Hamilton

Q. Yeah, which is adjacent to the row gates themselves.

Broad

A. Right.

Hamilton

Q. Okay. What position was the, the inmate's head facing? Was it facing towards the, which is the Bravo, Denver row, that's what we were referring to in 4400. That's...

Broad

A. He was facing the Bravo. The head was towards the, the Baker and Denver.

Hamilton

Q. Okay, and his feet were...

Broad

A. At the, facing the Abel and Charlie row.

Hamilton

Q. Okay. And the deputies, you're saying, when you went in there initially, there were four deputies. Now are you saying there were four deputies on top of him, or were there three deputies on top of him and one came later, or were, were there four deputies on top of him?

Broad

A. I don't recall if at that point, if there was three on him or four. I just know that when it was over, there was four standing

around him.

Hamilton
Q. Okay. So you were saying the three deputies are laying on top of him, or the, I don't understand how all three deputies, grown men, were laying on one person. Can you explain to me...

Broad
A. They were off to a side, like digging for his arm. I think they had already had the one arm back...

Hamilton
Q. Okay.

Broad
A. ...and were fighting to hold, like to maybe hold him down and to control his arm, and then the other side, the other two guys were trying to hold him and then reach for his arm also, which...

Hamilton
Q. Okay, but...

Broad
A. ...I believe it was still underneath him.

Hamilton
Q. So you're saying they had his left arm, it appeared as if they had his left arm back...

Broad
A. Yes, sir.

Hamilton
Q. ...and they were trying, two deputies were on the right side of the inmate's right side?

Broad
A. Right.

Hamilton
Q. Trying to pull his right arm up?

Broad
A. Right.

Hamilton
Q. Were they trying to hold his body down or, or anything like that?

Broad
A. I don't, I don't know, sir. I don't recall.

Hamilton
Q. Okay, well, you were saying that they were laying on top of him.

Broad
A. Well they were laying on their stomachs.

Hamilton
Q. Okay.

Broad
A. With, with him underneath.

Hamilton
Q. Okay.

Broad
A. So...

Hamilton
Q. Okay, so you were saying that the inmate's laying on his stomach?

Broad
A. Correct.

Hamilton
Q. And that two deputies on the right are laying on their stomach, are they going across his body or are they going in the same direction as his body?

Broad
A. I don't recall.

Hamilton
Q. Okay. And then the other deputy that was on the left side of the inmate's left side, was he laying across this guy's body or was he standing up, was he on his knees? Or, in, holding this guy's arm, or how was he...

Broad
A. I don't recall.

Hamilton
Q. Okay.

Broad
A. I don't recall. I just know they were all on the ground. I don't know if they were kneeling. I don't remember if they were kneeling or laying on him or what.

Hamilton
Q. Okay. You said that they were giving him some sort of directions. Were they yelling at him? Were they, how were they doing that?

Broad
A. I heard someone yelling, "Put your arm behind your back. Put your arm behind your back."

Hamilton
Q. Right. Okay, how many times did that happen?

Broad
A. I heard it maybe a couple of times.

Hamilton
Q. Okay. Do you know who, who was doing that?

Broad
A. No, I don't.

Hamilton
Q. Okay. Were they saying anything else?

Broad
A. As far as giving him commands?

Hamilton
Q. Just saying any, were they yelling? Did, did they call him, out his name? Did they do anything like...

Broad
A. No.

Hamilton
Q. ...that?

Broad
A. No.

Hamilton
Q. Were they giving any other commands or anything else?

Broad
A. No.

Hamilton
Q. Were they...

Broad
A. They just told him to put his hand behind his back.

Hamilton
Q. Okay. Were they telling you guys anything?

Broad
A. No.

Hamilton
Q. Okay. Did they, did they ever hit this guy to bring his arm, or did they, you know, use a impact weapon, or knee strikes, or anything that...

Broad
A. No, not...

Hamilton
Q. You never saw that.

Broad
A. ...not that I saw. No, sir.

Hamilton
Q. Okay. Was the inmate resisting, or was he laying flat?

Broad
A. To my best recollection, he was laying flat at that point. When I got in there, it looked like he was resisting. But once they, it, it all happened so simultaneous as I entered, I saw it and, and basically by that time, it was, it was done.

Hamilton
Q. Okay.

Broad
A. And I, I would just assume that once they got him handcuffed the, the, the struggling stopped.

Hamilton
Q. Okay. When you said he was resisting when you first came in...

Broad
A. Uh-huh.

Hamilton
Q. ...what does that mean? What was he doing that you saw?

Broad
A. Looked like maybe he was trying to turn to roll onto his side?

Hamilton
Q. Okay.

Broad
A. But he, his, his feet were moving.

Hamilton
Q. Okay, which direction were his feet moving in?

Broad
A. I don't recall. I just remember...

Hamilton
Q. Were they moving...

Broad
A. ...seeing his feet.

Hamilton
Q. Okay. Did he seem to be combative, or did he just simply look like he was trying to get up on his side?

Broad
A. Just looked like he was trying to get up. Just like, I mean, he wasn't just laying there...

Hamilton
Q. Alright.

Broad
A. ...submissively.

Hamilton
Q. Okay. Was he yelling anything?

Broad
A. No.

Hamilton
Q. Was he saying...

Broad
A. Not that I recall.

Hamilton
Q. ...anything?

Broad
A. Not that I recall.

Hamilton
Q. Did he ever say, "I give"?

Broad
A. No.

Hamilton
Q. Okay. Did, did you ever see him attack the deputies?

Broad
A. No, I didn't.

Hamilton
Q. Okay. Alright. You said they guy was struggling, they were trying to put his hands behind his back, and at one point you decided to go for this guy's legs.

Broad
A. Right.

Hamilton
Q. Why did you do that?

Broad
A. Because when I entered, my, as I had said, my first reaction was to, to go down onto the floor and help them.

Hamilton
Q. Okay.

Broad
A. But because there was no room, it, there was really nothing that I could do.

Hamilton
Q. Okay.

Broad
A. So I stood up for a moment and then saw that his feet were moving and, like, in order to prevent him from kicking anybody, I decided to go for his foot...

Hamilton
Q. So his...

Broad
A. ...or his ankle.

Hamilton

Q. His, was his lower torso free?

Broad

A. I don't recall.

Hamilton

Q. From the waist down?

Broad

A. I don't recall.

Hamilton

Q. Okay. You were saying that his, his legs were free, so...

Broad

A. Right, like maybe from his thigh on down.

Hamilton

Q. Okay, they were free?

Broad

A. His, his, yes.

Hamilton

Q. Okay, and he was on his stomach.

Broad

A. Yes.

Hamilton

Q. So, as far as him kicking the deputies, the only way he could have done that is by bringing his legs back towards his upper torso, correct?

Broad

A. Correct.

Hamilton

Q. Okay. Alright. So, you went and grabbed his leg.

Broad

A. Correct.

Hamilton
Q. Which one?

Broad
A. The right one.

Hamilton
Q. Okay. You grabbed the right one which was the closest to you, correct?

Broad
A. Correct.

Hamilton
Q. Okay. How did you grab that?

Broad
A. I just went for his ankle.

Hamilton
Q. Okay.

Broad
A. Just grabbed his ankle, both my hands.

Hamilton
Q. Okay.

Broad
A. And initially I went to put it down on the ground...

Hamilton
Q. Okay.

Broad
A. ...was just going to hold it there. Um, at, once I'd made contact with his foot, he wasn't kicking or anything. I was just basically holding his foot and then I decided I was going to raise it in case we wanted to hobble him. And as I, as I started to bring it back up off the ground, that's when he was, he was handcuffed and it was done, and so I let him go because by that time, like I said, his feet weren't moving. And so I stood, stood up and at that point, that's when I realized I had a cut on my

finger.

Hamilton
Q. Who, who handcuffed him?

Broad
A. I don't know.

Hamilton
Q. You don't know who handcuffed him? You didn't see any handcuffs out the whole time?

Broad
A. No, sir.

Hamilton
Q. So when you were, when you were holding this person's leg down, where were you looking?

Broad
A. For the moment, I was looking at his foot. I just for his foot, went down for it, and, like I said, it all happened so quick. I grabbed his foot and at that point, decided, no, let me raise it up and I, I started to bring it up. I thought it would be more advantageous to figure for them if we needed to, to hobble the guy and by that time, he was handcuffed. I didn't see who hooked him or...

Hamilton
Q. Okay.

Broad
A. I'm assuming that they had already had the left one hooked and was trying to hook the right one.

Hamilton
Q. But you didn't see the handcuffs...

Broad
A. I didn't see that.

Hamilton
Q. ...go on the guy?

Broad
A. No, sir.

Hamilton
Q. Okay. So you grabbed his right ankle and held it down for a moment.

Broad
A. Uh-huh.

Hamilton
Q. How long did that take?

Broad
A. Not long at all.

Hamilton
Q. Conservative guess.

Broad
A. Second, not even a second.

Hamilton
Q. Okay, so you went over there, did you bend down, or were you on your knees, or how did you do that?

Broad
A. I don't recall if I stooped or, at, at that point, I think I, I obviously stooped to grab it and then, I think, I went down to me knee. I don't recall.

Hamilton
Q. Okay. Did anybody grab the left leg?

Broad
A. Yes.

Hamilton
Q. Who did that?

Broad
A. Deputy Kammer.

Hamilton
Q. Okay, and, and how did you notice that?

Broad
A. He was off to the left side. I vaguely remember him holding, holding the guy's left foot.

Hamilton
Q. Okay. So you both went together, or did he go before you, or what?

Broad
A. I don't know.

Hamilton
Q. Okay.

Broad
A. I don't know.

Hamilton
Q. You didn't see him on the person before you went over?

Broad
A. No.

Hamilton
Q. Okay, so you, he wound up grabbing, how did he grab the left ankle? Or left leg?

Broad
A. I don't know.

Hamilton
Q. He was right next to you, you didn't see him?

Broad
A. Well, he, I wasn't paying attention to his actions. I was, mine, my attention was directed more towards the guy's foot that I had.

Hamilton
Q. Okay. And when you got up, was he still down?

Broad
A. I don't recall. I don't think so.

Hamilton
Q. Okay.

Broad
A. I believe he was standing next to me.

Hamilton
Q. Okay, so are you saying that he got up at the same time or before you?

Broad
A. I don't know.

Hamilton
Q. After you guys let the ankles go, what happened?

Broad
A. That was it. At that point, I had made the comment, "Oh, I cut my finger." And like I said, I realized the situation was Code 4. Everything was done. The guy was hooked. He wasn't resisting or struggling at that point any more and his feet weren't moving or anything and I said, "I'm going to go, I'm going to leave, wash my hands."

Hamilton
Q. Okay. Were the deputies still, once you got up and Deputy Kammer got up, were the deputies still on top of this guy, on the side of him, or where were they?

Broad
A. I, I only re, I remember them being on the right side of me, I don't remember what they guys on the other side were doing.

Hamilton
Q. Okay, but were they standing? Were they kneeling? What were they doing?

Broad
A. They were standing.

Hamilton

Q. Okay. Were, were any comments made or anything?

Broad

A. No, not at that point, I ...

Hamilton

Q. When you got up and you started looking at your fin, finger, could you notice it was injured? Which finger was that, by the way?

Broad

A. My right index finger.

Hamilton

Q. Okay. When you noticed that it was injured, were you still facing the deputies, or what were you doing?

Broad

A. I was, yeah, I was still standing, standing there, facing them. I guess we were all basically in a circle.

Hamilton

Q. Okay, and you were still facing the deputies, but you were looking at your injury.

Broad

A. Uh-huh.

Hamilton

Q. Correct? You, you didn't turn your back to him or anything, correct?

Broad

A. I don't recall. I don't think so, no.

Hamilton

Q. Okay. And you looked at your injury and did the deputies, once they had this guy handcuffed and you were saying that they were standing up, at least the ones on the right side, what did they do?

Broad
A. I don't know at that point. That, it, it all, I don't know.

Hamilton
Q. Where was Deputy Romero?

Broad
A. I don't, I don't, I don't recall. I think he went to the booth. I think he was holding the door to the booth. That's what I had later found out.

Hamilton
Q. Okay, but you didn't see him at the door?

Broad
A. No, sir.

Hamilton
Q. Why would he be holding the door to the booth?

Broad
A. I don't know, sir.

Hamilton
Q. He's not, he wasn't assigned there, was he?

Broad
A. Correct, no.

Hamilton
Q. Okay. But you don't remember seeing him...

Broad
A. No.

Hamilton
Q. ...anywhere in there?

Broad
A. Uh-uh.

Hamilton
Q. Okay. And as far as your injuries, you say that you left, how

long did you leave after you got up (inaudible)?

Broad
A. Oh, like almost immediately.

Hamilton
Q. Well, give me some time frame.

Broad
A. From the time I stood?

Hamilton
Q. Yeah.

Broad
A. Maybe a second or two because when I decided that there was no need for me to hold the guy's foot, I, that, that's when I basically noticed the, the blood on my finger.

Hamilton
Q. Okay.

Broad
A. And directed my attention to my finger and, and knowing that the guy was already handcuffed and it was over, decided to go and wash my hands.

Hamilton
Q. Okay, was it a bad injury, or minor injury, or...

Broad
A. It was just a minor.

Hamilton
Q. Okay?

Broad
A. It was like maybe a paper cut or something like that or, I don't know how I...

Hamilton
Q. Okay. Was the inmate bleeding?

Broad
A. I didn't, I didn't acknowledge blood at the time.

Hamilton
Q. You didn't see any blood at all.

Broad
A. No, sir.

Hamilton
Q. Okay. Okay, when you left, was anybody at the door?

Broad
A. I don't remember. I don't think so.

Hamilton
Q. Do you remember Deputy Barrett being there?

Broad
A. I don't recall. No, sir.

Hamilton
Q. You don't recall Deputy Barrett being, standing at the door.

Broad
A. No, sir. I don't.

Hamilton
Q. Okay. When you went back upstairs, did you go by yourself or...

Broad
A. Yes, I believe I did.

Hamilton
Q. You don't remember going with Deputy Kammer.

Broad
A. No, sir, no.

Hamilton
Q. Okay. Do you remember much about this incident?

Broad
A. I don't understand the point...

Hamilton
Q. Do you, you, a lot of things that you're saying that you don't recall, and that's fine, but I just, I want to make sure that the incident is clear in your mind exactly, you know, what happened because I know it's been a couple weeks. It's been about three, three and a half weeks since this incident has occurred...

Broad
A. Uh-huh.

Hamilton
Q. ...and I just want to make sure things are fresh, or do I need to help you refresh your memory on certain things?

Broad
A. No, I'm recalling everything to the best of my knowledge.

Hamilton
Q. Okay.

Broad
A. Yes, the whole thing was, I mean, we walked in and basically turned right around and left.

Hamilton
Q. Okay. From the time that you made it to 4400 until, and until the time you went back upstairs, how long would you say that was?

Broad
A. Couple minutes maybe.

Hamilton
Q. Okay. Couple minutes, two minutes, five minutes? Conservative guess. Couple would be two, obviously.

Broad
A. I would say about maybe two or three minutes.

Hamilton
Q. Okay, from...

Broad
A. From the time I left to the time I had gotten back up to the floor.

Hamilton
Q. So you're talking about from the time that you left 9000 and returned. Is that what you're saying? Or are you saying from the moment that you entered 4400? That's the question I'm asking.

Broad
A. Oh, no, no.

Hamilton
Q. From the moment you entered 4400...

Broad
A. I don't even think I was 4400 for even a minute.

Hamilton
Q. Okay. Alright. Did you see anybody in there? Any inmates, trustees, any other deputy personnel inside that module?

Broad
A. I remember seeing one inmate in the shower.

Hamilton
Q. In the shower? What did he look like?

Broad
A. He was a, believe he was white. I don't recall any other special features about him.

Hamilton
Q. Any color, did, his jumpsuit for example, was it...

Broad
A. No, sir.

Hamilton
Q. ...normal? How did you notice him?

Broad
A. I had heard somewhere during, during the, the scuffle, someone

yelling, "Turn around, turn around!" And that's about the time that I was standing up, I believe, is when I looked up and saw him.

Hamilton

Q. Okay. Did you see anybody else in there?

Broad

A. No, sir.

Hamilton

Q. On the rows, or in the...

Broad

A. No, sir.

Hamilton

Q. ...storage room? ...behind you?

Broad

A. No, sir.

Hamilton

Q. Nobody.

Broad

A. No, sir.

Hamilton

Q. Okay. Any other deputies? Other than the ones that you mentioned?

Broad

A. Other than the ones that I...

Hamilton

Q. ...that you mentioned.

Broad

A. No, sir.

Hamilton

Q. From the ones that were there when you ran in as, as well as those that accompanied...

Broad
A. Correct.

Hamilton
Q. ...you down there?

Broad
A. No, sir.

Hamilton
Q. Okay. Did you see any deputies kick or punch this inmate?

Broad
A. No, sir.

Hamilton
Q. How about any other person that may have been there? Any, anybody?

Broad
A. No.

Hamilton
Q. Did you hear anybody yelling at this inmate, other than what you told me about them telling him to put his hands behind his back?

Broad
A. No.

Hamilton
Q. Did you punch or kick this inmate?

Broad
A. No.

Hamilton
Q. Okay. Did you see Deputy Cameron, or Kammer or Romero kick or punch this inmate?

Broad
A. No, sir.

Hamilton
Q. Did you see this guy being hobbled?

Broad
A. No, I didn't.

Hamilton
Q. Okay, did you know that he was hobbled?

Broad
A. I found out later on that he was hobbled. Yes, sir.

Hamilton
Q. Who did you find that out from?

Broad
A. I don't recall if it was Kammer or Barrett, but I had heard the comment that he was hobbled.

Hamilton
Q. Okay. Kammer or Barrett?

Broad
A. Yes, sir. I, I don't recall.

Hamilton
Q. You never saw Barrett down there?

Broad
A. No.

Hamilton
Q. Okay. Barrett worked where? That night. Was he, was he working on your floor?

Broad
A. Yes, sir.

Hamilton
Q. Okay, he, he...

Broad
A. Yes, sir.

Hamilton
Q. ...worked with you.

Broad
A. Right.

Hamilton
Q. Okay.

Broad
A. I don't know who knew that he was hobbled. I just remember hearing that, that he was hobble, or who was present when, when it was done.

Hamilton
Q. Okay, what...

Broad
A. Because I, I wasn't there.

Hamilton
Q. What was the lighting conditions like?

Broad
A. If I remember, the lights were off.

Hamilton
Q. Was is totally dark in the sally port area or could you see...

Broad
A. I believe the sally port was lit, but the row lights were off...

Hamilton
Q. Okay.

Broad
A. ...if I remember correctly.

Hamilton
Q. But you can clearly see the inmate and the deputies, correct? You...

Broad
A. Oh yes, sir. Yes, sir.

Hamilton
Q. Running in there. You can see what's going on.

Broad
A. Right.

Hamilton
Q. Maybe if you're on the row, you couldn't see it as clearly because...

Broad
A. Correct.

Hamilton
Q. ...it was dark.

Broad
A. Correct.

Hamilton
Q. Okay. And you said that you didn't see any blood on the floor, on the walls, or anything like that.

Broad
A. No.

Hamilton
Q. Did you look?

Broad
A. No, I didn't.

Hamilton
Q. Did you ever see the inmate? His face?

Broad
A. No, I didn't.

Hamilton
Q. You never looked at his face when you ran in there to see who

it was, or did you see his arms or anything?

Broad
A. I, no, uh-uh.

Hamilton
Q. So you never saw his upper body...

Broad
A. By that time, I had already saw that, that it was over, he was handcuffed, and I was paying attention to my finger.

Hamilton
Q. When you ran in there, did you look at the inmate?

Broad
A. No.

Hamilton
Q. Okay. Why not?

Broad
A. I didn't see him. I'm, they were...

Hamilton
Q. Was it, why, why not? I mean, was it because he was covered, or...

Broad
A. Right.

Hamilton
Q. ...you just weren't paying attention to him and...

Broad
A. Just wasn't paying attention to him. Was, was basically looking at initially what was going on, on the floor and then what I could do to help.

Hamilton
Q. Okay.

Broad
A. And that was basically nothing because it was over.

Hamilton
Q. If a deputy, since you were focused in on grabbing the leg...

Broad
A. Uh-huh.

Hamilton
Q. ...you know, and trying to control this person, that the deputies, Deputy Kluth, [redacted] and [redacted]..

Broad
A. Uh-huh.

Hamilton
Q. ...and I don't know if you've mentioned Sloan. You said you saw him later...

Broad
A. Uh-huh.

Hamilton
Q. ...once everybody stood up...

Broad
A. Uh-huh.

Hamilton
Q. I don't know if he was there or not, but if, could you have seen them hit this inmate?

Broad
A. If I was direct...

Hamilton
Q. Punching him?

Broad
A. If I was directing my attention to what they were doing, I would guess so, yes, sir.

Hamilton
Q. No, I mean, but you're saying that you weren't directing, so could they have hit this guy without you just seeing him?

Broad
A. It's possible.

Hamilton
Q. Okay, but would you have heard it?

Broad
A. I would have heard it, yes.

Hamilton
Q. Okay. So you, you didn't hear anything unusual.

Broad
A. No, other than them hollering for him to get his arm behind his back, no.

Hamilton
Q. Okay, any, and you don't know who was doing the hollering?

Broad
A. No.

Hamilton
Q. Okay.

Broad
A. I think it was Sloan. I'm not sure, though, sir.

Hamilton
Q. Okay, okay. Did you, did you notice anybody replacing you guys? Once they had this inmate cuffed, did you notice the other deputies that were there prior to you guys from 9000 arriving, did you notice any of those four deputies relieving you guys on the legs, to grab this guy's leg?

Broad
A. No.

Hamilton
Q. So nobody just had you guys move, move away so they can hobble this guy.

Broad
A. Not, no, uh-uh.

Hamilton
Q. Anybody grab his legs that you know of?

Broad
A. No, not that I know of.

Hamilton
Q. Okay, is anything else that you can tell me about this?

Broad
A. No, sir.

Hamilton
Q. Have you heard rumors about this particular case?

Broad
A. I've, in what regards? Just...

Hamilton
Q. It, just what happened that particular night.

Broad
A. Uh-huh.

Hamilton
Q. Okay, can you tell us about what you heard?

Broad
A. I heard that the inmate had assaulted Deputy Kluth. I believe Kluth was trying to lock him down, is what I had heard, and that, that a fight ensued.

Hamilton
Q. Okay.

Broad

A. And how everybody else heard about it, I don't know...

Hamilton

Q. Okay.

Broad

A. ...as far as [redacted] and, and [redacted]

Hamilton

Q. Okay, did you...

Broad

A. And...

Hamilton

Q. ...you hear what happened to the inmate in, as far as injury-wise?

Broad

A. Later on, I did, yes.

Hamilton

Q. Okay, what did you hear?

Broad

A. I heard that he had sustained a cut on his face, laceration, and that he had an injury to his groin.

Hamilton

Q. Okay. What kind of injury?

Broad

A. Squashed testicle or something in that nature.

Hamilton

Q. Okay. Do you remember who you, who told you that?

Broad

A. No, sir.

Hamilton

Q. Okay. Did it happen at night, of did it happen the following

day, following week? (END OF TAPE, SIDE A) ...up there to 9000 and clean your finger...

Broad
A. Uh-huh.

Hamilton
Q. ...and Romero came up later, correct?

Broad
A. Correct.

Hamilton
Q. Okay, because he works on your floor.

Broad
A. I, I'm, I would assume that he did, yes. I didn't acknowledge him.

Hamilton
Q. Okay, you guys never, you never talked throughout the course of the evening?

Broad
A. About the incident itself?

Hamilton
Q. Right.

Broad
A. I think, yeah, yeah. There was some things said about it, other than the fact that, that there was a fight on 4400 and it involved Deputy Kluth. That was it.

Hamilton
Q. Did you guys talk about what happened afterwards, since Romero was down there last, correct?

Broad
A. Right.

Hamilton
Q. Yeah. Did you talk about anything about this incident? Maybe

a training situation. Hey, this is what happened...

Broad
A. No.

Hamilton
Q. ...this is the way we could have handled this a little differently, or anything like that?

Broad
A. The last guys up, I, I don't recall who I had heard it from, but I, I, at that point, I did hear that the guy did have a cut and that he was bleeding and that they took him to the clinic, and obviously later on, we found out he went to LCMC. But that night, that was all that, that was discussed basically about it.

Hamilton
Q. Okay. Did you talk to Barrett about it at all?

Broad
A. No, not that night.

Hamilton
Q. How about Kluth or [redacted] or [redacted], or [redacted] and, or Sloan?

Broad
A. No.

Hamilton
Q. Are you friends with them?

Broad
A. With all of those...

Hamilton
Q. The four...

Broad
A. ...deputies?

Hamilton
Q. Yeah.

Broad
A. Yes, sir.

Hamilton
Q. Okay, so you...

Broad
A. Yes, sir.

Hamilton
Q. ...it wouldn't be uncommon for you guys to talk about it.

Broad
A. Right.

Hamilton
Q. I mean, as if a fellow deputy got involved in a fight...

Broad
A. Right.

Hamilton
Q. ...you know, and you weren't clear on what happened...

Broad
A. Right.

Hamilton
Q. ...you'd like to know.

Broad
A. Sure.

Hamilton
Q. I would think...

Broad
A. I spoke to them later on about it, but not that night.

Hamilton
Q. Okay. Who did you talk to?

Broad
A. I, I believe it was the next night. I think I was taking either a, a fish, a new inmate to 44 or a re-mod line, the guy's going in custody. I, I know that I had to specifically to 4400 to...

Hamilton
Q. Okay.

Broad
A. ...take some inmates there and at that point I had asked him, "Hey, what happened last night."

Hamilton
Q. Who did you talk to?

Broad
A. Kluth.

Hamilton
Q. What did he say?

Broad
A. And he just told me that he was trying to lock the guy down, the guy turned on him, and, and the fight was on. And I asked him if he was okay. And that was it.

Hamilton
Q. Did you talk about hobbling this guy or...

Broad
A. No.

Hamilton
Q. ...anything else?

Broad
A. We didn't, I didn't, we didn't talk about the details of, of the incident. Just asked him basically what happened and see if he was okay.

Hamilton
Q. Okay. What did he tell you that happened? Other, there, you

just summarize (inaudible)...

Broad
A. Nothing specifically. He just, yes, sir. He just summarized it that he had a, had approached the inmate and that, apparently was trying to lock him down, or was having a problem locking him down. I, I'm now sure. And that the next thing, a fight started. And the guy had, apparently had him in a head lock or something and, and that was it. That's all, but I didn't ask him any specifics.

Hamilton
Q. Did you talk to any of the other deputies? The other three deputies?

Broad
A. I talked to Sloan.

Hamilton
Q. Okay.

Broad
A. Later on about it.

Hamilton
Q. And what did he say?

Broad
A. Nothing specifically. Just basically that, yeah, that there was a fight and, you know, I asked him if, if he needed anything from us and he said, no.

Hamilton
Q. Okay, when did you talk to him?

Broad
A. I think it was a couple days later, or maybe the, the day or two later.

Hamilton
Q. Okay. Anyone else? [redacted] or [redacted]

Broad
A. No, no.

Hamilton
Q. Talk with them about it?

Broad
A. No, sir.

Hamilton
Q. You guys didn't happen to talk about it in a briefing, discussing with your other fellow deputies what happened? Any of that?

Broad
A. No, not, not at that point, no.

Hamilton
Q. Okay. Do you know the deputies are relieved of duty, correct?

Broad
A. Yes, sir.

Hamilton
Q. Okay, and how did you find that out?

Broad
A. Came to work one night and, and heard that they had all been relieved. I believe it happened over my weekend of something like that.

Hamilton
Q. I know you, correct?

Broad
A. Yes, sir. You do.

Hamilton
Q. You used to work for me at Central...

Broad
A. Yes.

Hamilton
Q. ...Jail, correct?

Broad
A. That's correct.

Hamilton
Q. Yes, and I'll be blunt about things. If you saw something inappropriate by deputies or civilians, would you report it?

Broad
A. Yes, sir.

Hamilton
Q. Okay. You don't have a problem with that, correct?

Broad
A. No, sir. At all.

Hamilton
Q. Okay.

Broad
A. Oh, no.

Hamilton
Q. Alright, good. Anything else...

Broad
A. No, sir.

Hamilton
Q. ...you think of? Any particular, anybody else that you can think of that we can talk to? Any other deputies, sergeants, seniors? How about any civilians?

Broad
A. No, sir.

Hamilton
Q. Any inmates?

Broad
A. No, sir.

Hamilton
Q. Did you talk to any inmates as, did you go down the row to see if there was any inmate witnesses, or anything like that?

Broad
A. No, sir.

Hamilton
Q. Alright, that should be it. I, I'm sure I'll think of 500 other questions when I go home, but if I do, I'll give you a call.

Broad
A. Yes, sir.

Hamilton
Q. And the same with you. If you have any questions of me, feel free to call and if I can answer them, I will.

Broad
A. Alright.

Hamilton
Q. Alright, we're going to end this tape at, let's see, 1155.

END OF INTERVIEW

SGT. CHARLES DUNCAN
I.A.B. INTERVIEW 12-18-95

WITNESS INTERVIEW

CASE NUMBER IAB 008383

CHARLES DUNCAN

Nemeth
Q. Today's date is Monday, December 18, 1995. Time is 1420 hours. I'm Sergeant John Nemeth, accompanied by my partner, Sergeant Ernie Gjendem, we're present at the Central Jail Watch Sergeant's Office interviewing Sergeant Charles Duncan. Sergeant Duncan, for the record, would you state and spell your last name and employee number please.

Duncan
A. Charles Joseph Duncan, Senior, employee number [redacted]. Last name is spelled D-U-N-C-A-N.

Nemeth
Q. Okay, thank you. And prior to going on the record today, I provided you with a form which lists your rights as a sworn witness in this case. Do you understand your rights, sir?

Duncan
A. Yes.

Nemeth
Q. Okay, I see you indicated "yes" to the questions and signed your name on the form. Is there any questions you have before we begin this interview?

Duncan
A. No.

Nemeth
Q. Okay. Prior to going on tape, we briefly discussed and allowed you to review both your memorandum as well as the memorandum prepared by Sergeant Van Mosley and the written report submitted by Deputies Kluth, Sloan, [redacted] and [redacted] in this case. And have you had an opportunity to do that, Sergeant Duncan?

Duncan
A. Yes.

Nemeth
Q. Okay. I want--obviously we're here to talk to you about this incident, which is regards to IAB case number 008383, and do you--were you the watch commander on duty on the early morning shift back on October 27, 1994?

Duncan
A. Yes, I was.

Nemeth
Q. Okay, and during that shift, were you notified that some use of force incident had occurred?

Duncan
A. Yes, I was.

Nemeth
Q. And how did that notification occur?

Duncan
A. I was in the gym working out on my lunch hour and Sergeant Van Mosley came in, told me that there was a use of force on his floor. I was working the new side. He said it was on the 4000 floor and that the inmate had a head injury.

Nemeth
Q. Okay. And you say you were in the gym working out. Is it--is it normal practice and procedure at Central Jail to allow employees to utilize their--their lunch hour to exercise?

Duncan
A. Yes.

Nemeth
Q. Okay. And had you notified the watch sergeant or someone prior to your leaving the security area?

Duncan
A. Yes.

Nemeth
Q. Okay, and that's all normal procedure, correct?

Duncan
A. Yes.

Nemeth
Q. Okay. And when you were contacted in the gym, do you remember who contacted you?

Duncan
A. I remember Sergeant Van Mosley came out to talk to me.

Nemeth
Q. Okay. Was Deputy Kluth there as well? If you know.

Duncan
A. He might have been. I don't know. I--I'm not sure.

Nemeth
Q. All right. Now Sergeant Mosley gave you a brief synopsis of what happened. Is that true?

Duncan
A. That's correct.

Nemeth
Q. Okay. And what did you do then?

Duncan
A. Once he told me that the inmate had suffered a head injury, I got off the stair-stepper and still in my gym outfit, I walked in to find out the extent of injury and to start an investigation.

Nemeth
Q. Okay. And did you personally interview the inmate as required by Department policy?

Duncan
A. Yes, I did.

Nemeth
Q. Okay. And did you cause somebody to retrieve a video camera and videotape that interview?

Duncan
A. Yes, I did.

Nemeth
Q. Alright. Is there any particular reason why you had it videotaped?

Duncan
A. My--my normal practice is to use just a audio tape and something must have clicked to make me use the video, and I, I at this time, I can't remember why, but I did.

Nemeth
Q. Okay. All right, and at some point did the deputies involved in the use of force come to you and personally report the use of force?

Duncan
A. After I was done interviewing the inmate, I talked to the deputies.

Nemeth
Q. Okay. Who'd you speak to first? Or did you speak to them all together or--

Duncan
A. I believe I talked to Deputy Kluth first 'cause he was the one that I considered the primary deputy that used force because the way it was explained to me by Sergeant Van Mosley that he was in one of the sally ports of the module of--of 4400 and that the inmate had gotten him in a head lock and that a--and that there was no one else there at the time of this incident.

Nemeth
Q. Okay, no one else, meaning there wasn't even an--any other deputy in the module or anything like that?

Duncan
A. That was my initial understanding.

Nemeth
Q. Have you come to understand something different now?

Duncan
A. There's--there was somebody, and I can't remember who it was, I think there was somebody in the booth who called for assistance who then came--responded to help Kluth.

Nemeth
Q. When did you learn there was somebody, another deputy, in the booth at--when this incident first started in module 4400? Did you learn of it that--that evening or--

Duncan
A. That--

Nemeth
Q. --when they were reporting it--

Duncan
A. --that night?

Nemeth
Q. --to you?

Duncan
A. That night.

Nemeth
Q. Okay.

Duncan
A. 'Cause my first question was "Why were you out with an inmate with nobody else around?"

Nemeth
Q. Okay. That was your first question to who?

Duncan
A. Well to myself.

Nemeth
Q. Okay.

Duncan
A. And then--then I can't remember that I had asked Kluth or that I asked Van Mosley, but they answered it satisfactorily.

Nemeth
Q. Okay. And is there a procedure or a policy in the--in the jail here with regards to deputies contacting inmates in--in that kind of situation? One on one or--

Duncan
A. Well, there's a policy that a deputy always has to be in security. He can't--and by security I meant, for example, on the new side, the control booth area, there's supposed to be somebody in there at all times and--and on the old side it's--it's a little different. They have two modules in cages, so you just have to have one--one guy in security, the other guy can be out.

Nemeth
Q. So, in other words what you're saying, for the module, we're talking about 4400, it's a violation of jail rules to leave that area unattended. In other words, it always has to be staffed. Is that correct?

Duncan
A. There--there's suppose to be sworn personnel inside the security area, yes.

Nemeth
Q. Okay. At all times.

Duncan
A. At all times.

Nemeth
Q. All right. So you said from what you--the way it was initially reported to you, it sounded as though Kluth had left that area and had not--and had left it un--unstaffed. Is that correct?

Duncan
A. Well, whenever--whenever they initially told me about it, there was nothing said about a--a deputy in--in custody--in security. That's--that's what made me think about it.

Nemeth
Q. Okay. Do you know who was inside the--

Duncan
A. No.

Nemeth
Q. --security area?

Duncan
A. No, I don't.

Nemeth
Q. Did you know back then? Were you told?

Duncan
A. They probably told me, but I can't remember who it was.

Nemeth
Q. Okay. Can you tell from reading any of these reports or your memos or anything else who was--who was in there?

Duncan
A. When I read this, I didn't notice that it said who was in there. (Duncan reads aloud to himself)

Nemeth
Q. You--just for the tape record, you're reviewing Deputy Kluth's first report.

Duncan
A. Right, 49, right.

Nemeth
Q. Right. And I can say from--from my reading it, I can't discern from that report or actually from any of the reports in this incident who, if anyone, had relieved Kluth.

Duncan
A. Right. I--from--from reading them, I--I can't either.

Nemeth
Q. Okay.

Duncan
A. But the question came up, I know that, and I can't remember the answer.

Nemeth
Q. Somebody gave you an answer orally, but it's not written down--

Duncan
A. Right.

Nemeth
Q. --in these reports. Is that right?

Duncan
A. Right.

Nemeth
Q. Okay. Did you--I can see from this first report written by Deputy Kluth that it's signed off as approved by Sergeant Van Mosley. Did you approve any of the supplemental reports submitted in this case?

Duncan
A. I did not approve them, no, because I didn't sign any of them.

Nemeth
Q. Okay, none of them are signed off by anyone. None of the three supplemental reports prepared, one each by Deputies [redacted], and Sloan. None of them appeared to be signed off by a supervisor. Do you--would it be your normal practice as being the acting watch commander to approve those supplemental reports? Or is that somebody else's job?

Duncan
A. That depends on when they were turned in. This--this occurred at--

Nemeth
Q. 0030 hours.

Duncan
A. --see I don't--I don't know whether this--this paperwork was done when I got--got off. I remember that Sergeant Mosley's paperwork was done. I know that I had interviewed the suspect and the deputies. I don't recall whether this--this was completed.

Nemeth
Q. Okay. But just for the tape record, this first report indicates it's signed off by Sergeant Mosley at 0330 hours. Would it be a normal practice to complete your course review package prior to all the supplemental reports being submitted, or would you wait for all the reports to be submitted before you finished your force memorandum?

Duncan
A. No, I would--I would probably finish mine because the deputies take forever in writing. They could have even gone so far as to defer this. I mean, it's not like whenever you work in the field where you do five, six reports a night. These guys have trouble with a--a petty theft report. It takes them all night.

Nemeth
Q. Okay. So do you--as you--we sit here today and are talking about, do you remember approving any of these supplemental reports which are not signed off by any supervisor?

Duncan
A. I don't recall.

Nemeth
Q. Okay. Is it possible--

Duncan
A. I might have, but I--

Nemeth
Q. --you did?

Duncan
A. It's possible. I don't recall.

Nemeth

Q. Okay. Okay. Now you said that Sergeant Mosley was the one who told you and--and if I understand the sequence of how this happened, Sergeant Mosley comes into the gym and tells you a force incident occurred that involved a head injury at which point you personally go to interview the inmate, as you're required to do, and cause a videotape to be done, and then is the next thing that happens in--in chronological order that you speak to Deputy Kluth? Is that what happened next?

Duncan

A. To the best of my recollection, yes.

Nemeth

Q. Okay. Then what happened after that?

Duncan

A. Then I--at some time, I talked to the other three deputies--

Nemeth

Q. Okay.

Duncan

A. --because they were also involved. And--

Nemeth

Q. Alright.

Duncan

A. --I didn't--having talked to--to Van Mosley, having talked to the inmate, and to Kluth, there was nothing that I saw that--that was contradicting either the--there was nothing that--that made me suspicious of what they were telling me.

Nemeth

Q. Okay.

Duncan

A. I should--is the easy way of putting it.

Nemeth

Q. Alright, let me--let me show this. For the--for the transcriber, when you hear the phone ring, just disregard it. Secondly, the name spellings of the people we've been talking about are [redacted] Let's see, who else, [redacted] and Kluth is K-L-U-T-H. And also we're speaking about Sergeant Van Mosley. Mosley is M-O-S-E-L-Y, and first name is van, V-A-N. Also Sloan is S-L-O-A-N. Okay, when--when you talked to Kluth, do you remember him describing in any particular or specific detail what force he actually used on the inmate?

Duncan

A. I remember he said he got them--that the inmate got him in a head lock, that he was trying to get out, and then he--I don't recall what he said about striking him. I read in the memo, it said that he struck him, I'm trying to think how he put it to me, 'cause I remember a head lock, 'cause he got him in a head lock twice.

Nemeth

Q. Uh-huh.

Duncan

A. And I--I don't recall how he put it about striking him.

Nemeth

Q. Okay. Did he ever state--did Deputy Kluth ever state to you that he punched the inmate in the kidney? In the right kidney? And I can tell you from--from my knowledge of it and for the record her, your memorandum force package does not state anywhere that Kluth told you he punched the inmate, and Kluth's report doesn't state anywhere that he punched the inmate. It says struck, says struggled, but it doesn't say punched and it doesn't say where. Do you have any independent recollection, as we sit here, about that?

Duncan

A. He could have. I don't know.

Nemeth

Q. Okay. Okay. If he would have, would you have taken notes and put it in your memorandum?

Duncan
A. No.

Nemeth
Q. You would not have?

Duncan
A. No, I--I might have taken notes, but I wouldn't have put them in my memorandum. The way--'cause the way we report force is different now than--than we did then and--

Nemeth
Q. A little more specific now?

Duncan
A. It's a lot more specific. At that time, the watch commander--the overview was done by the sergeant. The only thing that the sergeant--the lieutenant would do is talk to the inmate, and most--and that was usually taped, so that was kind of a brief synopsis of what was done. And then the deputy submitted memos, so again the--I--I put to the watch commander would put a brief synop--synopsis and that it was told to him by the deputies. And then the deputies submitted their memos and that's where the specifics would be.

Nemeth
Q. Okay, did deputies submit any memos in this case? Regarding this force?

Duncan
A. Well--

Nemeth
Q. The memos you were talking about?

Duncan
A. Well memos. By memos, I'm talking about the supps.

Nemeth
Q. Because their crime reports.

Duncan
A. Right. Well, the way we--again, the 49 is the first--first report. If you don't have a 49, then you have a first memo.

Nemeth
Q. Right. In this case--

Duncan
A. Well, you have a 49.

Nemeth
Q. --when you say 49, we're talking about a cri--

Duncan
A. Report--

Nemeth
Q. --report of a crime, right?

Duncan
A. Crime report, right.

Nemeth
Q. And in the case, the crime is battery on a peace office, 243 PC, correct?

Duncan
A. Uh-huh.

Nemeth
Q. And another thing is that I wanted to ask you, did you direct any memo--any--any deputies in this case, the four deputies we spoke of, Kluth, [redacted] and Sloan, did you direct any of them to write any force memos? Or any memorandums regarding this incident?

Duncan
A. I--I didn't direct them, say write a memo, but they were involved in force and so whenever I was talking to Van Mosley, I made sure he realized that the 49 was Kluth's memo, and that the other three used force, so they wrote supps--

Nemeth
Q. Right.

Duncan
A. --so indirectly I--I told him to, yes.

Nemeth
Q. You told him not to write memos. You told him to write supplemental reports or a crime report. Is that correct?

Duncan
A. Right.

Nemeth
Q. Okay.

Duncan
A. It's a matter of semantics. Whenever I look at this, this is a force report to me because that's what I was concerned with that night.

Nemeth
Q. Okay.

Duncan
A. Even if it's a 49.

Nemeth
Q. Alright. And did--did you speak to any of the deputies directly and tell them to not put any--to not put--include all the details in these reports?

Duncan
A. No, I did not.

Nemeth
Q. Did you ever speak to the deputies involved and tell them specifically, ensure that they include all the details of the force they used in these reports?

Duncan
A. I don't recall telling the deputies specifically, but I remember telling Van Mosley specifically to make sure that it was detailed.

Nemeth
Q. To make sure the reports submitted by the deputies were detailed?

Duncan
A. Right.

Nemeth
Q. As to the force they used? Each?

Duncan
A. That's correct.

Nemeth
Q. Okay. Okay. So Kluth told you some things that--it doesn't say in your memo or in his report exactly what he did. It says struck and struggling, but it doesn't say exactly what and where and things of that nature, nor does it explain any of--any of [redacted] injuries. Do you remember noting any injuries to--to inmate [redacted] when you interviewed him?

Duncan
A. I believe that on the video I did. Because I--if I'm not mistaken I had him roll over and move on the--he was on a gurney and they had him strapped to the gurney and as I recall, I either said loosen or take off one of the straps so we could then roll another part of his body. 'Cause he'd said something about his head or something and I wanted to make sure it got video'd, but I didn't put that down in my synopsis because I had it on video.

Nemeth
Q. Alright. Do you remember a head injury to the--to inmate [redacted], I believe it's his right, no, over his right eyebrow or left eyebrow. Do you remember an injury requiring some sutures to his eye, left eye?

Gjendem
Left eye.

Duncan

A. I don't know about sutures, but I know that there was an injury in his face, around one of the eyes. Over one of the eyes, there was an injury.

Nemeth

Q. Okay.

Duncan

A. And that's why the doctor wanted him taken to the hospital.

Nemeth

Q. Alright, one of the--one of the statements in your memorandum, under Witness Statements, is that, "I observed the inmate had a deep laceration over his left eye and bumps on his forehead," and "I" is you speaking. Is that correct? Since this memo's from you?

Duncan

A. Okay, yes, yes.

Nemeth

Q. From you sergeant to Captain Scaduto at the time.

Duncan

A. That's right.

Nemeth

Q. Okay. Is that injury above the left eye, is that addressed in any of these reports written by the four deputies?

Duncan

A. I didn't see it, no.

Nemeth

Q. Okay. So that's left unexplained, correct? As far as the deputies reports go.

Duncan

A. That's correct. I remember asking how he got the head injury and it was explained to me that whenever he fell to the gr-- the only time he could have gotten that injury is when he--when the deputy and the inmate fell to the ground.

Nemeth
Q. Okay.

Duncan
A. But that was done verbally.

Nemeth
Q. Right. Okay. And in--

Duncan
A. At first--

Nemeth
Q. And in Deputy Kluth's report it does mention, "At this time I took suspect [redacted] to the floor," on page 4 of Deputy Kluth's crime report, but again it--it doesn't even speak of any injury to inmate [redacted] or how the--those injuries occurred. Correct?

Duncan
A. Correct.

Nemeth
Q. Okay. Now you spoke to Kluth and what about the other--the other deputies [redacted] and Sloan? Did they come in and speak to you about the force they used?

Duncan
A. I don't remember whether I talked-- I can't remember whether I talked to them in the watch commander's office or in the clinic. I know--know I talked to him and I talked to him--by that time I, like I said, I had already talked to Van Mosley, Kluth, and the inmate. And I talked to the--I saw no reason to separate the other three deputies.

Nemeth
Q. Okay, so you spoke to those three in a group, together?

Duncan
A. Yes, but I can't remember where.

Nemeth
Q. Okay, and do you remember what [redacted] said as to the exact force he used in this incident?

Duncan
A. No.

Nemeth
Q. How about [redacted]

Duncan
A. I remember that each of them told me that they used force, but I--I can't tell you, other than reading their memos and going off that, what--what force they used.

Nemeth
Q. Okay. And is that also true for Sloan then as well?

Duncan
A. Right.

Nemeth
Q. Okay. Now you--do you remember approximately a day or two after this incident that I was here at Central Jail conducting a force inquiry into this matter at that time? Do you remember that?

Duncan
A. Yeah, I recall it, yes.

Nemeth
Q. Okay. And that I spoke to you and I was asking you at that time, although not formally interviewing you, I was asking you what the deputies had told you, after I--having reviewed your memo. Do you remember that?

Duncan
A. I remember us having the conversation, yes.

Nemeth
Q. Okay. And that you told me that you specifically asked each of the involved deputies if they had used an impact weapon or kicked inmate [redacted]. Do you remember telling me that?

Duncan
A. Kind of.

Nemeth
Q. Okay. And then you wrote a memorandum--

Duncan
A. Right.

Nemeth
Q. --to me stating that same thing. Remember doing that as well?

Duncan
A. Okay, I remember writing a memorandum, but without seeing the memorandum, I don't remember exactly what I wrote. I know that it's, like I told you before we went on tape, I had an incident where I didn't find out that a deputy--and the deputy used correct force, but he was afraid to tell me about a flashlight that he used, even though it was--was correct, but he didn't report it until after I through writing the whole thing. And ever since then, and it was probably about six months before this occurred, I've always been in the habit to specifically ask, did you use an impact weapon, did you kick, did you use anything other than your fists.

Nemeth
Q. Okay. Alright, so I'll tell you what, I have that memorandum and I don't--unfortunately I don't have it with me. It was part of the case today, but I will fax it to you, okay? And--

Duncan
A. Okay.

Nemeth
Q. --just for the record on this tape, if something is incorrect about--I'll fax it to you. If there's something incorrect about it, call me immediately, okay?

Duncan
A. Okay.

Nemeth
Q. If I don't hear from you, I'm going to assume that that's the memo you remember writing in--to writing to me a year ago.

Duncan
A. Okay.

Nemeth
Q. Alright. Okay, so what we're saying now is you do remember making--because you made it a practice, you said, approximately six months before this incident happened, back in October of '94, of always asking specifically to each deputy involved if they used an impact weapon or--or a--provide--or used any kicks in their force. And do you remember doing that in this case?

Duncan
A. Yes. Well, I can't say specifically yes. If I read the--regarding the memo and I--I know that I always do, in fact I had a force incident today and I asked the same question.

Nemeth
Q. Okay. Alright. And do you remember what each of these deputies tell you that they did as far as using an impact weapon or kicking the inmate?

Duncan
A. All of them said they used their hands and fists only to hold the inmate and get him handcuffed.

Nemeth
Q. Okay.

Duncan
A. None of them reported an impact weapon, nor did they report a kick.

Nemeth
Q. Okay. Did any of these deputies tell you that there was any other deputies there when this event happened? When this use of force occurred?

Duncan
A. I--I asked whether there was anybody else.

Nemeth
Q. Who did you ask? Each and every one of them?

Duncan

A. As a group. In fact all four of them were there and I asked as a group. Plus I asked Van Mosley to double check and ask people on his floor if they had witnessed any part of it. You know, a lot of people think that if they didn't see the whole thing, then they don't have to report on it and I told them, I said maybe they saw a part of it. And we--

Nemeth

Q. You told that to who?

Duncan

A. To Van Mosley and I asked the deputies, and this was in a group. And then I re--

Nemeth

Q. Five people or--or six people including yourself were present? These four deputies, Sergeant Mosley, and yourself?

Duncan

A. Yes, and there might have been somebody else there. I don't know. And I asked specifically whether there was anybody else.

Nemeth

Q. Okay. And did you get an answer from these four deputies?

Duncan

A. They said no one else was there and I--and then again I told Van Mosley double check and he never got back with me that there was anybody else.

Nemeth

Q. Okay. Do you know a Deputy Ceasar Romero, works early morning shift here? Central Jail.

Duncan

A. Ceasar Romero. If I saw him, I--I'd recognize him, but I'm trying to place a face to it. The only Romero I can think of worked training and he didn't work early mornings.

Nemeth

Q. Okay. All right. Did a Deputy Ceasar Romero report witnessing force to you in this event?

Duncan
A. On this incident, no.

Nemeth
Q. Did Deputy Barrett, B-A-R-R-E-T-T, who now works day shift legal deputy, did he report witnessing any force to you in this incident?

Duncan
A. No, he did not.

Nemeth
Q. How about Deputy Broad, John Broad, B-R-O-A-D? Works early morning shift.

Duncan
A. No, he did not.

Nemeth
Q. And how about Deputy Kammer, K-A-M-M-E-R, Todd Kammer? Works early morning shift.

Duncan
A. No, he did not.

Nemeth
Q. Or works day shift now, used to work early morning shift.

Duncan
A. No, he did not report witnessing or using force.

Nemeth
Q. Okay, so is it accurate then that like your memo says, that the only four deputies who reported any involvement in this case to you are Kluth, [redacted] and Sloan?

Duncan
A. That's right.

Nemeth
Q. Okay. And is it also what you're saying to me that you mentioned specifically to Sergeant Mosley while Kluth, [redacted] and Sloan were there, and did you each--ask them as well

as when you were speaking to Sergeant Mosley--Mosley, was anybody else present? Did you ask each of those deputies that?

Duncan
A. In a group, yes. I didn't turn to each one and say--

Nemeth
Q. So--

Duncan
A. --deputy did you, deputy, but as a group, I asked and then I, again, had Van Mosley double check.

Nemeth
Q. Okay. Did any of them, any of these deputies, Kluth, [redacted] or Sloan, respond to you? Or make--give any response at all when you said that about additional witnesses?

Duncan
A. I--as I recall, some of them shook their heads, no.

Nemeth
Q. Shaking their heads from side to side--

Duncan
A. Yeah, no one--no one verbalized for--some of them shook their heads, no.

Nemeth
Q. Okay. Did anybody speak up and say that they were aware of witnesses?

Duncan
A. No, none of them spoke up and said they were aware of any witnesses.

Nemeth
Q. I guess my question would be then, as we talked about earlier, the safety--the safety regulation at Central Jail requires that there be a sworn deputy sheriff inside of module 4400 control booth at all times, but these four deputies were the only four deputies involved in the use of force, yet--and they were all personally

involved in touching the inmate, then who is inside the security area of module 4400?

Duncan

A. I can't recall.

Nemeth

Q. Did they tell there was a name of somebody who was in there?

Duncan

A. They must--they must have told me something that satisfied it 'cause I didn't write it down or I--'cause I would have directed Van Mosley to do a censurable conduct. For example, if Kluth was the module officer and left security, then obviously he screwed up.

Nemeth

Q. You mean if he left security with nobody in--inside of the--

Duncan

A. Right.

Nemeth

Q. --control booth.

Duncan

A. If he left security and no one else in there--

Nemeth

Q. Okay.

Duncan

A. --then--

Nemeth

Q. Well--

Duncan

A. --then he made a mis--then he screwed up.

Nemeth

Q. Right.

Duncan
A. The (inaudible)--

Nemeth
Q. Where we're at at this point though is we're at four deputies who state they were in module 4400 and used force on inmate [redacted]. And yet no where in any report or in any memo prepared by either you or Sergeant Mosley is it--does it explain what deputy, if any, was inside the module 4400 control booth. Is that correct?

Duncan
A. That's correct.

Nemeth
Q. Okay. Assuming there--there was no deputies in there, you, like you said a minute ago, you would have prepared some kind of censurable conduct or some kind of document documenting the fact that there was an error in or a--a violation of jail security policy, correct?

Duncan
A. I wouldn't have prepared it, no. I would've--

Nemeth
Q. Well you would have caused somebody to prepare--

Duncan
A. I would've have talked to Van Mosley about it.

Nemeth
Q. Okay. And--and the--that wasn't done. Is that right?

Duncan
A. Not that I can recall or--and it's not here.

Nemeth
Q. Okay. And how about--let's assume that there was somebody relieving that module. Would that person have then been a witness, do you believe?

Duncan
A. Should've been.

Nemeth
Q. Should have at least been interviewed, correct?

Duncan
A. Correct.

Nemeth
Q. Was that done?

Duncan
A. I was--I don't know who was in there or who it was.

Nemeth
Q. Okay. And (inaudible)--

Duncan
A. Now, I'm not sure whether one of these guys was named as being in there. I can't recall. I don't know who--I can't recall who they told me was in there. It could have been one of those guys and then they left security because of the fight. I don't know.

Nemeth
Q. Okay. But that would still be a violation, correct? If they left that security area unmanned?

Duncan
A. Yeah, but it would have been as--it would have been as bad as Kluth leaving the unmanned--it's a judgment call. If somebody's in danger of really being hurt, do you leave security to help him and--and I don't recall that being brought up either.

Nemeth
Q. Uh-huh, okay.

Duncan
A. That's a good question. I can't remember.

Nemeth
Q. How about at the end of--at the end of the event, did you--'cause I noted in your memo, you write--under Findings and Recommendations, you write that "There should have been at least two deputies outside the booth and one deputy inside the control booth prior to contacting the inmate, who had already demonstrated

his defiant demeanor before the--the deputy approached the inmate." And I think when you're referring to the deputy here, you're talking about Kluth approaching the inmate, correct?

Duncan
A. Okay.

Nemeth
Q. Is that correct?

Duncan
A. Yes, 'cause Kluth is the one that got into the altercation, yes.

Nemeth
Q. Okay. And then you write, "Sergeant Mosley had the same concerns and conveying to the deputies some alternatives that could have been safer. The deputies listened and accepted the critique in a very positive manner." That's what you have typed under your Findings and Recommendations of your force memo. Were you present when Mosley had this conversation with the deputies about the alternatives that could have been safer?

Duncan
A. No, just--he related that to me later.

Nemeth
Q. Okay.

Duncan
A. 'Cause I don't remember him talking to them in fron--in front of me, no.

Nemeth
Q. Okay. But Mosley told you that he had some type of counseling, slash, training discussion of tactics regarding this incident?

Duncan
A. We--we talked about that and he said that he would--that he'd go talk to them. And then he told me later, as I recall, that he had talked to them and that everything was positive.

Nemeth

Q. And that's why he put that statement in the report here?

Duncan

A. Yes.

Nemeth

Q. Okay. Okay. I'm gonna let Ser--Sergeant Gjendem has a couple of questions, if you don't mind.

Duncan

A. Sure.

Gjendem

Q. Just kind of quickly here. When did you write this memo to Captain Al--Captain Al Scaduto?

Duncan

A. That night.

Gjendem

Q. That night?

Duncan

A. Yeah.

Gjendem

Q. Can you tell me the date on that?

Duncan

A. October 27--It says October 27th.

Gjendem

Q. Okay. And that's the same date as the incident?

Duncan

A. That's correct. (Tape cuts off on Side A)

Nemeth

Q. We're continuing with Side B of witness Sergeant Duncan's interview.

Gjendem
Q. When you wrote this supple--when you wrote this memo to Captain Scaduto on October 27, 1994, did you have a copy or the original of the first report? The 49 only, not the supplemental report, but the 49 only? Authored by Deputy Kluth.

Duncan
A. I don't recall having it and I can almost guarantee I didn't because the deputies take so long in writing a simple report, I'm almost positive I didn't have it.

Gjendem
Q. Well, this report here shows that Sergeant Mosley signed it off at 0330 hours.

Duncan
A. Okay.

Gjendem
Q. Is that the same day do you know?

Duncan
A. I don't know. Cause it just has the time.

Gjendem
Q. Yeah.

Duncan
A. I don't know.

Gjendem
Q. Is it the general practice to use the same date--use the same time as the same date? And if it was a different date they would put--they would put it on there. Is that correct?

Duncan
A. No. Cause you have deferred reports that will come in and it has a time and a lot of times guys don't put the date if the date is not the same.

Gjendem
Q. Okay.

Duncan

A. I know on the deferred reports they don't.

Gjendem

Q. Okay. And on this supplemental report here by Deputy Sloan, does it indicate whether it was signed off by anybody?

Duncan

A. I didn't see--I didn't see any on the second page. But usually it's done. It's either at the bottom of the first or at the end of the second.

Gjendem

Q. Okay. And the same thing with Deputy [redacted]

Duncan

A. It would have been down here and it's not done.

Gjendem

Q. Okay. And the same thing with Deputy [redacted], then too?

Duncan

A. There's no--nobody has signed it off, no.

Gjendem

Q. Do you know if anybody ever read these reports?

Duncan

A. I would assume that Sergeant Mosley did.

Gjendem

Q. Okay.

Duncan

A. And, it's like I said, I could have, but I don't recall reading them.

Gjendem

Q. Was he a new sergeant at that time?

Duncan

A. I think he was still on probation at that time, yes.

Gjendem
Q. Okay.

Nemeth
Q. We're talking about Mosley.

Duncan
A. Mosley, yes. Van Mosley.

Nemeth
Q. Under your--is it your understanding of jail procedures, whose--whose normal function is it to approve these supplemental reports?

Duncan
A. That would be your sergeant. Well the sergeant that--for something like this, it would be the sergeant who wrote the force.

Nemeth
Q. And is there a re--and that--and that is who in this case? Van Mosley?

Duncan
A. It would be Sergeant Mosley.

Nemeth
Q. Okay. And is there a reason for that procedure in your understanding?

Duncan
A. To review to make sure that--what the deputies have told us is the same as what they write.

Nemeth
Q. Thank you.

Gjendem
Q. Okay. Getting back into these force reports, did--did you ever see these, use of force reports?

Duncan
A. The--what I call an OPES form?

Gjendem
Q. Yeah. The OPES form.

Duncan
A. Yeah. I signed it.

Gjendem
Q. Okay. And that's the same thing for all them?

Duncan
A. Well I signed the second page of them, I should of. I didn't sign--I only signed one of them it looks like.

Gjendem
Q. And you would have given the deputies copies of them? Is that right?

Duncan
A. The deputies could run copies, but we don't normally give them to them. No.

Gjendem
Q. Okay.

Duncan
A. I only signed one of them. I don't know. Normally I'd sign all of them.

Gjendem
Q. Did you ever go up to module 4400?

Duncan
A. No.

Gjendem
Q. Did you ask anybody to photograph the area up there or anything like that in 4400 where this so-called assault on a deputy took place?

Duncan
A. I don't recall asking, I know that a, as a sergeant whenever I do it depending on the area I would take pictures. If there is

something to take a picture of, if it's just a normal module. But there again that's up to the supervising sergeant.

Gjendem
Q. Okay.

Duncan
A. Normally he would take pictures of the inmate, because I video'd he didn't take pictures of the inmate so there's no still pictures. And I don't think he took the video up there.

Gjendem
Q. He didn't take your video camera up there and videotape the area or anything like that?

Duncan
A. I--not that I recall.

Gjendem
Q. Did you ever go up there?

Duncan
A. I never went up there. No.

Gjendem
Q. Is there some reason you didn't go up there?

Duncan
A. I saw--after talking to the sergeant, talking to the inmate and talking to the deputies, I saw no reason to.

Gjendem
Q. Okay. Getting back to when you interviewed everybody. You talked to the inmate, right. Down at the clinic?

Duncan
A. Clinic. I put it on tape, yes.

Gjendem
Q. Yeah. Did you have a good feel that what he was telling you was not the truth, at that time?

Duncan
A. Oh, I knew he wasn't telling me the truth, 'cause he said the deputies didn't touch him. And I knew the deputies did 'cause they reported the force.

Gjendem
Q. Okay.

Duncan
A. And I asked, in fact, after I interviewed him, I asked Mosley and the deputies, I said, "Where's he getting this about the bloods?" and as I recall they said there weren't even any bloods in there.

Gjendem
Q. Okay.

Duncan
A. If my recollection is correct. And so, anything he was telling me about the incident, I knew he was screwed up. I did ask him on the tape as I recall whether he had any other injuries and he didn't say he had any others.

Gjendem
Q. And at that time you had already talked to Sergeant Van Mosley, correct?

Duncan
A. I talked to Van Mosley first--

Gjendem
Q. And he had told you what he had been told by the deputies, what happened up there inside the module, correct?

Duncan
A. That's correct.

Gjendem
Q. You had talked to Kluth by that time, is that correct?

Duncan
A. I don't recall when I talked to Kluth. I know that I had talked to Van Mosley out in the gym and--

Gjendem
Q. Okay.

Duncan
A. --and there could have been a deputy with him, I don't recall. And then I know that, because of what Van Mosley told me, I went and I checked the inmate and videotaped him. And then I also videotaped my interview.

Gjendem
Q. Uh-huh.

Duncan
A. And I could have talked to Kluth beforehand or afterwards. But I know I talked to him.

Gjendem
Q. Okay.

Duncan
A. But I can't tell you when. It was in that time span.

Gjendem
Q. Okay. In fact--And then Sergeant Van Mosley wasn't there when it happened, right? To your understanding?

Duncan
A. To my understanding he was not there. Right.

Gjendem
Q. Okay. So you only heard one side as to actually what happened at that time. Correct? And that was Deputy Kluth's? Although if you want to take into account what the inmate had told you.

Duncan
A. At which time did I only have one side?

Gjendem
Q. Well, when you were down there at the clinic. You only had one, actually one side of what happened up there inside the module, because Van Mosley wasn't there.

Duncan
A. Correct.

Gjendem
Q. And Kluth, he had been up there and he gave you his account of the incident.

Duncan
A. That's correct.

Gjendem
Q. And the inmate told you that the crips or bloods had done that to him and you had discounted that. Correct?

Duncan
A. Well, if from what the deputies told me, yeah. Cause they said they used force.

Gjendem
Q. Okay. And then at some time you talked to the other three deputies?

Duncan
A. That's correct.

Gjendem
Q. Can you tell me why you didn't interview those three deputies separately? When you only had one account of the incident.

Duncan
A. Okay. Well, cause I didn't look upon it as having one account. Cause I had--I had a sergeant that was on the floor who did a basic investigation, or should have. And then I went in and I talked to the inmate who gave me his version of it. I could see from the injuries that he had obviously been in an altercation and then I had Kluth's version. Nothing seemed out of the ordinary from what the deputies told me. We had an inmate that was obviously, mentally disoriented as evidenced by what he told us. And these--having a sergeant up there at the time and having him relate the information. I didn't see--and also telling the sergeant to go back and see if you can find other witnesses. I saw no reason for me to go up and look at the, an empty sally port,

cause obviously it was empty because everybody was down in the clinic.

Gjendem
Q. Uh-huh. Was there blood on the floor up there in the sally port?

Duncan
A. I don't know. I--like I said, I didn't go up there to look.

Gjendem
Q. Okay. Do you know when Sergeant Van Mosley got to the module? Was it during the fight? Before the fight? After the fight? Or when he got there exactly?

Duncan
A. I assume it was afterwards cause in his memo he doesn't relate any witnessing, witnessing any force. And he didn't do a--he did a supervisory memo but he didn't do a witnessing memo.

Gjendem
Q. Okay. Do you know how long after the fight, he got there?

Duncan
A. No I don't.

Gjendem
Q. Okay. Inmate witnesses? Did you cause any inmates to be wit--a interviewed?

Duncan
A. I caused Sergeant Van Mosley to go up and look for inmate witnesses along with other deputy witnesses.

Gjendem
Q. Okay. Did you ask any deputies to go up and look for inmate witnesses?

Duncan
A. I don't recall asking any deputies. I think my conversation was like I said, with a group. I had Van Mosley. I had the deputies there.

Gjendem
Q. All at one time?

Duncan
A. While I was in the clinic, there were there. And I asked did anybody kick or use any impact weapons. That was the part of the conversation I had with them.

Gjendem
Q. When you asked Sergeant Van Mosley to look for some inmate witnesses, did you hear or see Sergeant Van Mosley turn and ask any of the deputies to go look for inmate witnesses to the incident up in the module?

Duncan
A. I don't recall that.

Gjendem
Q. Alright. Do you know if Sergeant Van Mosley went up there and looked for witnesses?

Duncan
A. I assume he did. But, like I said, I did not go up to the floor and I didn't follow him around. He's a comp-- He was a competent supervisor, so I saw no reason to distrust him.

Gjendem
Q. Uh-huh. Did you ever see Sergeant Van Mosley's memo?

Duncan
A. I believe it's--I did.

Gjendem
Q. Uh-huh. Did you go, chance to look at that and everything?

Duncan
A. I read it earlier, yes.

Gjendem
Q. Do remember reading it after he submitted it to you?

Duncan
A. After he submitted to me?

Gjendem
Q. Yeah. Or did he submit it to you?

Duncan
A. Yes. Yes he did. And I read it, but as an independent recollection until I read it again, I didn't remember what he had written. No.

Gjendem
Q. Okay.

Duncan
A. This happened over a year ago.

Gjendem
Q. Yeah, over a year ago. Is your memory today of what he told you, what he verbalized with you out there in the gym, as to what he documented here on his force review package, supervisor's memo?

Duncan
A. For the most part, yes. His--the verbal conversation we had was more detailed than the report. Unfortunately, it's a shame we didn't have the new format, it would have answered a lot more questions.

Gjendem
Q. Uh-huh.

Duncan
A. And this, whenever you read this, I could go with today's format--

Gjendem
Q. Uh-huh.

Duncan
A. --and this doesn't give near the information that the format does today.

Gjendem
Q. Okay. When did you learn that there was another injury to the inmate? Besides the cut over his left eye. The groin injury.

Duncan
A. The groin injury I didn't know until--

Nemeth
Q. Nemeth.

Duncan
A. I'm sorry.

Nemeth
Q. Nemeth. I'm trying to think of my name, too.

Duncan
A. I was trying and I was going to say Namath, and I knew that wasn't right. Nemeth, until he came over one day, and told me about it and I was really surprised, 'cause I'm sure you guys have seen the tape. I specifically asked the inmate, do you have any other injuries. He never grabbed for his groin. He never, in fact, when we moved him, I commented to you when I talked to you afterwards, I think, that whenever I had him moved on the gurney, he moved his legs and there was no groan of pain or grabbing his stomach or--I was flabbergasted when he told me.

Gjendem
Q. Uh-huh. In Kluth's report, it says the he was struggling with the inmate, that he was in a headlock and everything. Do you remember what he had told you as to what he had did during this struggle?

Duncan
A. I recall that he said that he struck him and he hit him, but I can't recall now, his exact words. No.

Gjendem
Q. When he struck and then hit him, was he referring to using his hands or do you knew? Or was he using a weapon to do that? Or was he using his feet to do that?

Duncan
A. I assume that he was using his hands, because I specifically, asked later on, whether anyone used fists or impact weapon and there was no positive answer to the a--

Gjendem
Q. Fists or impact weapons?

Duncan
A. Whenever I asked--I'm sorry. Feet or impact weapons. And so, whenever, whenever, I was talking to him and he said he struck him, I assumed it was the, his fists.

Gjendem
Q. Okay. Well, you got something.

Nemeth
Q. When Kluth told you what he did, was Mosley there also?

Duncan
A. Probably, but I don't recall.

Nemeth
Q. Okay. Would it be your practice to ensure, I think you said earlier, you understand the reason for all the reports, particularly regarding a force incident being submitted to the same supervisor for approval, is to ensure that they are all of the same continuity. In other words they match what was said earlier in the verbal report about the incident. Correct?

Duncan
A. Uh-huh.

Nemeth
Q. Okay. What I'm asking you is, why is it--why doesn't it say in this report, specifics as to what Kluth did, whether it be punching, striking with an opened hand or closed hand, whatever it was. Why doesn't this report define that with some specificity? Or specifics? In case I said specificity wrong.

Duncan
A. I can't answer that.

Nemeth
Q. Okay.

Duncan
A. I learned a lot--once I talked to you, I learned a lot and I'm a lot more specific. If you read today's force memo, it's a lot different than this one.

Nemeth
Q. Okay. The other question I wanted to ask you is, when Kluth and--well, let me say this. You don't remember if Kluth came with you with Mosley or not on the initial notification when you were in the gym but when you first remember seeing Kluth, can you describe for me what his appearance was? Was his uniform out of place, was he disheveled? Anything of that nature?

Duncan
A. God, I don't, I don't recall.

Nemeth
Q. Okay. Was Kluth complaining of any injury, or did he complain to you of any injury as a result of this incident with the inmate?

Duncan
A. No. I asked everybody at one time or another whether they were injured and everybody said they were okay. I assume his neck hurt, but I don't recall him saying anything about that.

Nemeth
Q. Okay. And I'm not trying to trick you or anything but there was a--there was in the record in regards to this case, an Employee Injury Report submitted on behalf of Deputy Kluth regarding some type of neck pain. He wasn't taken to, I guess, Boyle Heights Medical Clinic. Is that where CJ treats their employees for injuries?

Duncan
A. Yeah. Boyle Heights and Temple. Yeah.

Nemeth
Q. Okay.

Duncan
A. There could have been. I--

Nemeth
Q. You don't have any memory of that?

Duncan
A. No. I don't remember that one.

Nemeth
Q. Okay. And it doesn't say anything about Kluth being injured and in either yours or Mosley's report, does it?

Duncan
A. No. But I didn't see anything when I read it today.

Nemeth
Q. Oh, it does say something that a--that Kluth hurt his elbow, I think.

Gjendem
A. Uh-huh.

Nemeth
Q. Kluth was injured when he struck his right elbow on the concrete floor. Refer to Employee Injury Packet. Okay. And that's, actually the last sentence of page three on Sergeant a--I'm sorry, page two of Sergeant Mosley's report.

Duncan
A. Okay.

Nemeth
Q. But you don't have any independent recollection of that?

Duncan
A. I don't recall that.

Nemeth
Q. Okay. All right. So as far as, did anybody think to photograph or videotape Kluth as to, document his injuries and or his physical appearance of his uniform was disheveled, as evidence of the attack that the inmate perpetrated on him?

Duncan
A. There was no pictures taken that I know of.

Nemeth
Q. Okay. Okay. That's pretty much all I have.

Gjendem
Q. That's pretty much what I got. I don't have anything else.

Nemeth
Q. Okay. I realize it's been fourteen months since this event first occurred back in October of '94, and it's just unfortunate that it has to go this long before we can get it back to investigate it, but is there anything else that comes to your mind as we speak about this and hopefully, you know, get, we try to refresh your memory about it. Is there anything that comes to mind that you would like to put on the record that needs to be brought to light in regards to this case, because we've asked the questions to you that we believe are pertinent. And is there anything that you are aware of in your knowledge at this time that needs to come out; this is a good chance to mention it.

Duncan
A. No. I think everything was covered in your questions. There's nothing that I can add to that.

Nemeth
Q. Okay. Then we will conclude the interview. The time is 1510 hours.

END OF INTERVIEW

(TELEPHONIC INTERVIEW)

Nemeth
Q. Alright. Today's date is December 21, 1995. I'm sorry, December 20, 1995, Wednesday, time is 1555 hours. I'm Sergeant John Nemeth on the phone with Sergeant Charles Duncan from Central Jail. And I had just faxed a copy of Sergeant Duncan's memo which he wrote to me, dated, I believe it's dated October 31, 1994. Is that correct Sergeant Duncan?

Duncan
A. That's correct.

Nemeth
Q. Okay. Have you had a chance to review that memorandum?

Duncan
A. Yes.

Nemeth
Q. Okay. And is it accurate as to what it states?

Duncan
A. Yes.

Nemeth
Q. And is that, in fact, the same memorandum you wrote at my request back on October 31, 1994?

Duncan
A. Yes. It appears to be.

Nemeth
Q. Okay. And in that memo it makes some statement about witnesses, is that correct?

Duncan
A. That's correct.

Nemeth
Q. And what does it say in reference to--

Duncan
A. It says--accordingly, it says I asked if there were any deputy or inmate witnesses, again they all stated no. I asked that they go back to the module and check with the trusties. Ascertain if they observed the deputies' actions. Deputy Sloan stated that he had already specifically asked the trusties and they told him, that as soon as they heard a disturbance between the deputy and the inmate, they went into their cells and did not see anything.

Nemeth
Q. Okay. Did Deputy Sloan ever make mention to you about an inmate who was in the Baker row shower directly where the--directly in front of where the incident happened?

Duncan
A. No. 'Cause I looked at the last sentence. It says no other deputy said anything about an inmate in the shower area of module 4400.

Nemeth
Q. Okay.

Duncan
A. Until I read this, I didn't recall that at all.

Nemeth
Q. Okay. But now having read it. You remember that happening, is that right?

Duncan
A. I remember writing the memo.

Nemeth
Q. Okay.

Duncan
A. I don't know where I got the information about an inmate in 4400.

Nemeth
Q. Right. But this memo is written just days after the incident, correct?

Duncan
A. Right.

Nemeth
Q. When it was fresh in your mind?

Duncan
A. Right.

Nemeth
Q. Now, it's fourteen months later, right?

Duncan
A. Right.

Nemeth
Q. And so, would you have written something that wasn't true in your memo?

Duncan
A. No. I wouldn't.

Nemeth
Q. Okay. All right. Is there anything else you want to add on this, sir?

Duncan
A. Nope.

Nemeth
Q. Okay. Stay on the line. We'll end the tape at 1600 hours.

END OF PHONE INTERVIEW

ADMINISTRATIVE RIGHTS/SWORN WITNESSES

NOTE: This admonition is for Department personnel who are being interviewed in the capacity of **SWORN WITNESSES**.

I am **Sergeant John Nemeth** and this is **Sergeant ~~Greg Johnson~~** ERNIE GJERDON of the Internal Affairs Bureau, which is commanded by Captain ~~Judith A. Lewis.~~ NORMAN L. SMITH

You are about to be questioned as part of an official Los Angeles County Sheriff's Department administrative investigation. You are here as a witness in a matter which concerns another employee. The complainant has not filed a complaint against you, and you are not under investigation as a subject in this matter.

Do you have a Policy and Ethics Chapter of the Manual of Policy and Procedures? Yes [✓] No [ ]
Are you familiar with its contents? Yes [✓] No [ ]

You are hereby advised that the provisions of the Government Code, generally referred to as the Peace Officers' Bill of Rights, do not apply in this instance. You are specifically reminded that Policy and Ethics Section 3-01/040.70 and 3-01/040.75 require that you make true, full and complete statements. Any refusal to do so may result in your discharge or other punitive action.

NOTE: Sworn personnel being interviewed as witnesses only and who are not under investigation or not personally charged with any violation do not have a right to have a representative present during the interview. If it is determined during the interview that the deputy is likely to be subject to discipline, the interview shall be stopped and the deputy shall be advised that his status has changed to that of a subject.

In the event the witness declines to answer questions on the grounds of self-incrimination, the witness/employee shall be readvised of his administrative rights as though he were a subject.

The above admonition has been explained to me and I understand its contents.

DATE: 12-18-95 FILE NO. 008383

Person Interviewed: [signature] SGT. CHARLES DUNKAN [redacted]

(Signature) (Print)

INVESTIGATOR: [signature] **John A. Nemeth, Sergeant**

(Signature) (Print)

SGT. CHARLES DUNCAN
I.A.B. INTERVIEW 1-8-96

SUBJECT INTERVIEW

CASE NUMBER IAB 008383

CHARLES DUNCAN

Nemeth
Q. Today's date is Monday, January 8, 1996. The time is 1925 hours. I'm Sergeant John Nemeth accompanied by my partner, Sergeant Ernie Gjendem. We're present at the Central Jail Watch Commander's Office, interviewing subject Sergeant Charles Duncan regarding IAB case number 008383. Sergeant Duncan prior to going on tape I provided you with a copy of your rights as a sworn subject in this case. I see you signed your name, indicated yes to the questions and affixed your initials to the form. Do you understand your rights as a subject in this case sir?

Duncan
A. Yes I do.

Nemeth
Q. Okay. And I see you've exercised your right to a representative by requesting Lieutenant Mark Milburn be present. Is that correct?

Duncan
A. That's correct.

Nemeth
Q. Okay. And you want Lieutenant Milburn to be your representative in this case?

Duncan
A. Yes I do.

Nemeth
Q. Okay. I have also explained to you that you have a right to tape record the interview and--and you have declined to tape record the interview. Is that true?

Duncan
A. That's correct.

Nemeth
Q. Okay. All right. For purposes of the tape, would you state and spell your last name and state your employee number for me?

Duncan

A. Charles Joseph Duncan, Sr. Last name is spelled D-u-n-c-a-n. My employee number is [redacted].

Nemeth
Q. Okay. Thank you. Lieutenant Milburn for voice identification would you state and spell your last name and state your employee number please?

Duncan
A. Lieutenant Mark Milburn. M-i-l-b-u-r-n. [redacted].

Nemeth
Q. Okay. Thank you. Sergeant Duncan we previously interviewed you as a witness in this case and we are here today to further discuss the same event. And the--the purpose of this investigation concerns a use of force that occurred on October 27, 1994. Do you remember your assignment on that date?

Duncan
A. Yes I do.

Nemeth
Q. And what was that?

Duncan
A. I was the watch commander for the early morning shift.

Nemeth
Q. And that's here at Central Jail where you're currently assigned?

Duncan
A. That's correct.

Nemeth
Q. Okay. And do you remember a use of force incident occurring on that night?

Duncan
A. I remember one being reported to me, yes.

Nemeth
Q. Okay. And it was reported to you because it occurred on your shift? Is that correct?

Duncan
A. Yes.

Nemeth
Q. Okay. And do you remember where that happened?

Duncan
A. Sergeant Mosley told me that it occurred on--in the sally port of module 4400.

Nemeth
Q. Okay. And do you--do you remember the names of the deputies involved?

Duncan
A. Klut--well, I'd have to look it up--

Nemeth
Q. --Okay.--

Duncan
A. --he's just one of them.

Nemeth
Q. Okay. And prior to going on tape today I provided you with transcript of our previous interview. Did you get a chance to read that?

Duncan
A. Yes I did.

Nemeth
Q. Okay. And what you're saying is you need to refresh your memory by looking at that form?

Duncan
A. Well--I can--Do you want me to give you the names off the report?

Nemeth
Q. Yeah. You've got--you've also got a copy of your use of force memorandum that you wrote and if you could just read the names.

Duncan
A. Deputy David Kluth. Deputy [redacted] Deputy [redacted]. And Deputy Gary Sloan.

Nemeth
Q. Okay. Do you remember each of these deputies or do you know them personally at all?

Duncan
A. I've seen them at Central Jail. I haven't seen them for the past year.

Nemeth
Q. Cause they've been relieved of duty? Correct?

Duncan
A. That's correct.

Nemeth
Q. Okay. Did you know these guys or have any special relationship with any of these deputies prior to this incident?

Duncan
A. No I did not.

Nemeth
Q. Okay.

Duncan
A. I'd seen some of them working, but I never seen them outside of work.

Nemeth
Q. Okay. Just casual contacts from--from working the same shift with them? That type of thing?

Duncan
A. I don't work the same shift with them, just casual contact in--whenever I worked overtime. So it was rare that I saw them.

Nemeth
Q. Okay. They worked early morning shift and you primarily work day shift? Is that correct?

Duncan
A. Well I work days now. I used to work the p.m. shift during this time.

Nemeth
Q. Okay. And as a result you'd only see them perhaps on change of shift or when you worked overtime on the early morning shift?

Duncan
A. Or they worked overtime.

Nemeth
Q. Okay. All right. And in this case did those four deputies that you just mentioned and read off here, use of force form that you prepared. Did they report to you being involved in this incident?

Duncan
A. Yes they did.

Nemeth
Q. Okay. And did they write written reports in this event?

Duncan
A. They wrote supplemental reports to the 49, yes.

Nemeth
Q. Okay. And one of them wrote a 49, correct?

Duncan
A. Correct.

Nemeth
Q. Three wrote supps.

Duncan
A. Deputy Kluth wrote the 49 or the crime report and the other three deputies wrote supplemental reports.

Nemeth
Q. Okay. And do you know how it came to pass that Deputy Kluth wrote a 49? Did you direct him to do that or did somebody else?

Duncan
A. No I did not direct him to do that.

Nemeth
Q. Do you know how it came to pass that Deputy Kluth wrote a 49?

Duncan
A. I would assume that Sergeant Van Mosley who was the floor sergeant told him. I had talked to Sergeant Van Mosley about it.

Nemeth
Q. And did you tell Mosley that a 49 was in order for this case?

Duncan
A. He knew it.

Nemeth
Q. He knew it on--on his own?

Duncan
A. It was--it was my understanding that he did.

Nemeth
Q. Okay. All right. And did Sergeant Mosley submit the 49 prepared by Deputy Kluth? Well, first of all, do you know who approved the 49 written by Deputy Kluth?

Duncan
A. Looking at the copy it shows Sgt. Van Mosley's signature.

Nemeth
Q. Okay. And do you know who approved the supplemental reports written by the other three deputies?

Duncan
A. As I recall, there was no signature on any of them.

Nemeth
Q. Okay. Do you remember personally approving any of those reports yourself?

Duncan
A. No I do not personally remember.

Nemeth
Q. Okay. Okay. Is your signature on any of them?

Duncan
A. No it is not.

Nemeth
Q. Would it be your normal--would it be in the course and scope of your normal duties as the watch commander that night? Is that correct? You were the acting watch commander that night?

Duncan
A. I was the watch commander.

Nemeth
Q. Okay. And would it have been as--part of your normal course and scope of duties as the watch commander that night to approve those reports? Those supplemental reports?

Duncan
A. No.

Nemeth
Q. Whose--whose duty is that normally?

Duncan
A. That would--well if it was just a regular report the watch sergeant or the floor sergeant. In this case because it's use of force it'd be the sergeant that was doing the investigation on the use of force.

Nemeth
Q. And who was that?

Duncan
A. That would be Sergeant Van Mosley.

Nemeth
Q. Okay. All right. So you don't remember approving any of the reports. Correct?

Duncan
A. I don't recall, no.

Nemeth
Q. All right. And your name doesn't appear on any of them as having approved them, correct?

Duncan
A. I didn't see my name, no.

Nemeth
Q. Okay. Were those reports at sometime submitted to you by Sergeant Mosley or by anyone?

Duncan
A. I saw them whenever you gave them to me. I don't recall the first time I--I read them. I know I didn't see them that night, not all the reports.

Nemeth
Q. Did you see some of them that night?

Duncan
A. I don't know. I can't remember.

Nemeth
Q. Okay. Did you at some point ultimately prepare a watch commander's report on use of force?

Duncan
A. Yes.

Nemeth
Q. Okay. And is that what you're holding in your hand there?

Duncan
A. Yes.

Nemeth
Q. Okay. And how did you come to prepare that?

Duncan
A. I was advised by Sergeant Mosley that there was use of force, that the inmate was injured. Had a head injury. I called--well I--first of all I went and I talked to the inmate during my interview I tape recorded--I take it back, I videotaped my conversation with the inmate that shows his injuries plus it had--it had my voice in

my interview with him. After I was done with that I contacted--I--it was at that time it was OPUS. Per the policy that this--head injury got called, contacted Lieutenant Burns and advised him of the head injury to the inmate.

Nemeth
Q. Okay. All right. And at that time you then prepared a watch commander's report on use of force? The memorandum you're holding in your hand now? Is that right?

Duncan
A. That's correct.

Nemeth
Q. Okay. And how did you prepare that? Did you utilize the informa--just the information you obtained from Sergeant Mosley verbally reporting it to you and you're interview and videotape of your speaking with the injured inmate?

Duncan
A. I made the report from talking to Sergeant Mosley, interviewing the inmate and I talked to Deputy Kluth and I also talked to the other three deputies.

Nemeth
Q. Okay. Did you take any notes or anything of any of those interviews or any of those conversations?

Duncan
A. The only notes were--and it wasn't notes, was the videocam of the inmate.

Nemeth
Q. Okay. So then you basically prepared the memorandum that you have there in your hand from your memory of their statements to you? Is that correct?

Duncan
A. I prepared it from the information given me--to me from Sergeant Van Mosley and Deputy Kluth, the other three deputies and my interview.

Nemeth
Q. Okay. And was that information that you're talking about--in this conversation, that's oral information, is that correct? Or did they give you something in writing?

Duncan
A. That's oral information, correct.

Nemeth
Q. Okay. All right. So the question is did you have anything in writing from anyone when you prepared that memorandum?

Duncan
A. At the time I prepared this, no I didn't have anything in writing at all.

Nemeth
Q. Okay. You--you--you prepared that from your memory of what these different individuals told you happened, is that right?

Duncan
A. Well, my job as watch commander--you make it sound like I did the investigation. And my job is to interview the inmate, which I did, which is prepared here--

Nemeth
Q. --Uh-huh.--

Duncan
A. --and also the medical information.

Nemeth
Q. Okay.

Duncan
A. And then recommendations and finding.

Nemeth
Q. Okay. And what--aside from that what else do you believe your duties as watch commander involve in--in the use of force incident?

Duncan
A. My duties?

Nemeth
Q. Yes.

Duncan
A. Because there was a head injury and I--one of my duties is to contact O.P.E.S. which I did. I explained to Lieutenant Burns the injuries--the injuries that I saw, the injuries that I was told about.

Nemeth
Q. And you personally interviewed the inmate? Is that correct?

Duncan
A. I personally interviewed the inmate cause I--I didn't talk to Lieutenant Burns until afterwards.

Nemeth
Q. Uh-huh.

Duncan
A. I told him about the head injury, I told him he was being taken to LCMC.

Nemeth
Q. Okay.

Duncan
A. And he declined to come up that night.

Nemeth
Q. Okay. And is there--is there anything else that you can think of right now, and this isn't a test on policy, but it just comes to the top of your mind that you think is a--a duty consistent with your job that night as watch commander?

Duncan
A. Well obviously if there's something that is obviously wrong or--or that I think is wrong form the information that the sergeant's giving me and the deputies are giving me and what I see on the inmate the--whenever the sergeant ran--ran by what happened, when the deputies ran by what happened and then I see the inmate and I look at his injuries and I listen to what he tells me the--there was nothing to indicate that I should micro-manage my sergeant. And he went up and he did his thing on 4,000 and I did my thing in the watch commander's office.

Nemeth
Q. Okay. Did the inmate ever complain of any injury to--to any part of his body?

Duncan
A. Yes.

Nemeth
Q. Okay. And where--what injury did he complain of?

Duncan
A. He complained about an injury to his--his head. He had a laceration above his--I can't remember, left or right eye. One of the eyes.

Nemeth
Q. Okay.

Duncan

A. He had a laceration--he also complained and I looked at some bumps on his--on his forehead and--a bump on his forehead and I think he had another bump back in his--somewhere in his hair.

Nemeth
Q. Okay. Aside from head injuries did the inmate complain of anything else?

Duncan
A. No. And he really--the only one he complained about was over his eye, he didn't complain about anything else. The other injuries I looked for and I believe that I had the videocam to--as close up as the thing would work.

Nemeth
Q. Take a close up of those injuries you just described?

Duncan
A. As I recall.

Nemeth
Q. Okay. Did the inmate ever complain of any--of having been kicked in the groin or testicles?

Duncan
A. No.

Nemeth
Q. Okay.

Duncan
A. In fact the inmate said he never fought with deputies. The inmate said that his injuries were all caused from a fight that he had with bloods that were in his cell. And that the deputies saved his life by getting him out.

Nemeth
Q. Okay. When you said blood, you're referring to other inmates who are gang members of the blood gang?

Duncan
A. Street gang members of the bloods. Yes.

Nemeth
Q. Okay. So the inmate gave you what you knew to be a false story then, is that right?

Duncan
A. Yes.

Nemeth
Q. Cause the inmate never said anything about the deputies touching him. Correct?

Duncan
A. That's correct.

Nemeth
Q. Okay. Did you ask the inmate about the inconsistency in his story that--that he was offering? Did you challenge that inconsistency?

Duncan
A. I didn't challenge it by saying that he was incorrect. I asked him if he was sure that he had no--I--I further questioned him if that's what you mean by challenging.

Nemeth
Q. Yeah.

Duncan
A. I asked him, "Are you sure that you didn't have any altercation with any deputies? Are you sure that--that you didn't fight with any deputies?" He assured me many times over that he had no--no altercation, no fight, no injuries were caused by deputies.

Nemeth
Q. Okay. And after you did that--made your notification you then prepared the memorandum that you have there?

Duncan
A. After I did my interviews and I called O.P.E.S., then I prepared--because if O.P.E.S. would have rolled, I wouldn't of--they would have done the investigation and I wouldn't have done that.

Nemeth
Q. Okay. Now had you seen any of the written reports? Either the one written by Kluth, the 49 report or any of the supplemental reports written by the other three deputies prior to writing that memorandum?

Duncan
A. I know what you're trying to--to get at the truth, but this is between all the interviews, this is probably the 100th time you've asked me and I've--I've always told you, I did not have any written reports when I prepared mine. I saw the written report from Sergeant Mosley and I--I don't recall seeing any of the others. I know I didn't have any of them at the time I prepared my memo.

Nemeth
Q. Okay.

Duncan
A. They were not needed.

Nemeth
Q. Okay. So you're certain you didn't see any of the deputies' reports but you--you did have Mosley's supervisors report when you prepared your supervisory report?

Duncan
A. No. That's not what I said. I said--

Nemeth
Q. --Okay. Tell me for clarification then.--

Duncan
A. --I said I had no reports when I prepared my report.

Nemeth
Q. From any source?

Duncan
A. None. Zero. Not from Van Mosley, not from any of the four deputies, nothing from the inmate, nothing from anybody else. I had no written reports.

Nemeth
Q. Okay. I think in your transcript you made mention that you might of had the reports, but you didn't remember. That's what you said in the past.

Duncan
A. I understand that and I'm telling you I had--

Nemeth
Q. --So you remember now--

Duncan
A. --at the time that I--that I wrote--that I typed my memo out to the Cap--to Captain Skadudo, I did not have any of those reports. I had Sergeant Mosley's later, I remember reading that, I do not recall the other reports.

Nemeth
Q. Okay. The reason I'm asking you is because in--in your prior statement you did say you might of had them. So now you remember--you have a clearer memory of it as we speak now and you're certain that you had none of them?

Duncan
A. I had a clearer memory then, maybe the way that it was asked, maybe the way I understood it, I don't know which, I had no written reports at the time I prepared my type written report.

Nemeth
Q. Okay.

Duncan
A. At the time that I did it. I had Sergeant Mosley's report afterwards cause I remember reading that.

Nemeth
Q. Okay. All right. Did any of the deputies ask you what reports they were going to be submitting in this--connection with this incident?

Duncan
A. Did the deputies ask me?

Nemeth
Q. Yeah.

Duncan
A. I don't recall, they might have. That's up to the floor sergeant. Sergeant Van--Van Mosley to make sure that they prepare the correct reports.

Nemeth
Q. All right. Did anybody ask you, should they pull out a form which looks like this one here? And for the record I'm showing Sergeant Duncan a copy of deputy's use of force report, force review package, which is an exhibit in the case.

Duncan
A. Okay. Did--did one of the deputies ask me?

Nemeth
Q. Right.

Duncan
A. I don't recall. I know that they're not suppose to because a 49 is written--

Nemeth
Q. --Okay.--

Duncan
A. --I might have told Sergeant Van Mosley if he asked, but I--I don't have--I don't remember him doing it. I might have, I don't remember.

Nemeth
Q. Okay. Is--is it possible a deputy came up and asked you, is this the right form to submit and you said, no, don't submit that? And told them to write a 49 instead?

Duncan
A. I don't recall that.

Nemeth
Q. Okay. All right. Have you seen this form before?

Duncan
A. Yes. I've given it out many times.

Nemeth
Q. Okay. In what--under what circumstances is that form utilized?

Duncan
A. If there's no 49 report, it--it's my understanding that Central Jail dep--deputies will write a--write on that memo form. If there's a 49 and there--they use force, they'll do a supplemental report. If they witness force then they would fill out that form even if a 49 was written. All the deputies from my understanding had used force so they were all required to write a supplemental report.

Nemeth
Q. Okay. All right. So now--now that you've read the deputies' reports in connection--submitted in connection with this incident, and in comparison to your memo are there--is there something that you'd change or is it--is your report--your memorandum submitted to Captain Skadudo still--still something you would submit in it's current form?

Duncan
A. My memo?

Nemeth
Q. Yeah.

Duncan
A. Or the deputies' memo?

Nemeth
Q. No, yours.

Duncan
A. Mine would be the same.

Nemeth
Q. Okay. So no light due to the fact that you've now read all the criminal reports submitted in conjunction with this case, you wouldn't change anything in your memorandum?

Duncan
A. In my memorandum, not that I can think of.

Nemeth
Q. Okay.

Duncan
A. I would change the deputies. I'd change the 49. You know, sitting here now there'd be a lot of things that I would change.

Nemeth
Q. Okay. Alright. I'm just talking about your memorandum to the county.

Duncan
A. My memorandum, I see no reason to change it.

Nemeth
Q. Okay. In regards to this incident when we spoke to you last time we asked you how many deputies were you told were present during the event?

Duncan
A. I was told that Deputy Kluth was the original deputy that the inmate had got him in a head lock. I can't--I'd have to read the reports but then the other three deputies arrived. I can't tell you what order and they helped subdue the inmate.

Nemeth
Q. Okay. So, is that mean four?

Duncan
A. There was a total of four--after I was--after I talked to Sergeant Van Mosley, Deputy Kluth and the other three deputies I was told there's only four deputies and these were the four.

Nemeth
Q. Okay. Were you told that there were any other deputies present to witness the use of force?

Duncan
A. I was not told that there was any and I asked if there was and nobody gave me a positive response. So, I assumed that there was no others.

Nemeth
Q. Why did you assume that?

Duncan
A. If I ask you a question--

Nemeth
Q. --Did you assume it because you asked them were there any witnesses and the answers you got were no there were nobody else present. Is that why?

Duncan
A. It's not like you and I sitting here and I said, "Were there any witnesses that you know of?" And you turn around and ask me--the way I saw my job as a watch commander was I'm supposed to interview the inmate. I'm supposed to make sure that the sergeant, in this case Sergeant Van Mosley, is doing what he's supposed to do as a sergeant. Let's investigate it. Find out if there's any witnesses. Find out how many deputies are involved. Look at the location. So on. But that--that's the sergeant--floor sergeant's job. I had no reason to think that he was incompetent. In fact, the information he was giving me was good. He was parallel to what the deputies told me. The injuries that I saw were not inconsistent with having a deputy and an inmate wrestle on the ground in a module 'cause I know there's stairs there that, concrete, there's walls. You could run into a million things and never hit him and still have the injuries that he's talking about.

Nemeth
Q. Alright. So, to get back to the question we were talking about. Did you--what caused you to assume there were no witnesses?

Duncan
A. When they were--at some point in the clinic or thereabouts I asked the deputies as a group and Van Mosley is there anybody else that's involved? I need to know who they are. They told me.
I shouldn't say they. Van Mosley--I only know what the deputies said. Van Mosley said there was on one else involved. I recall sending Van Mosley back up to double check to find out--a lot of times deputies don't understand what a witness means. They think that if they're not standing there for the entire event they're not a witness and I wanted to make sure that Van Mosley might have--there might have been somebody else that walked in. There might have been somebody there that ran out. I didn't get that technical with them but I asked him, I said, "Make sure that there's nobody else. See if you can find any inmate witnesses or anything else is pertinent to the force."

Nemeth
Q. Okay, and when you told them that, did you intend for Sergeant Mosley to carry that instruction out personally?

Duncan
A. Yes, I did.

Nemeth
Q. Okay. Did he report back to you? If you recall.

Duncan
A. The only way he reported back to me is his memo, and then we also talked about the tactics used by the deputies--

Nemeth
Q. Okay.

Duncan
A. --but as far as your question about witnesses, I, whenever he came back in, gave me his memo, I didn't sit down and say did you do this, this, this, and this, no I didn't.

Nemeth
Q. Okay.

Duncan
A. I read his memo--

Nemeth
Q. Alright.

Duncan
A. --I saw what his memo said, his memo didn't refer to anything else that I, that I read, and I was more concerned, we talked about the tactics, really.

Nemeth
Q. Okay. So, when you read Sergeant Mosley's memo because it doesn't make any mention of him locating any additional witnesses, did you assume that he had checked and found none?

Duncan
A. I assumed that, yes.

Nemeth
Q. Okay, but you never asked him, did you check, what was the results of that direction I just gave you?

Duncan
A. I, I never sat him down and said did you do this, did you find any, who did you talk to, no I did not.

Nemeth
Q. Okay. Sergeant Duncan, how long have you worked at Men's Central Jail?

Duncan
A. Since 19--

Nemeth
Q. As a sergeant?

Duncan
A. --well, I worked headquarters, then I came over to Central Jail in '90, Geez, they all go together, it was either '90 or '91, I think it was '91, Dec, January of '91, or December of '90, something like that.

Nemeth
Q. Okay, and prior to this incident in 1994, October 27 of '94, how many times had you worked as a watch commander at Central Jail?

Duncan
A. At Central Jail?

Nemeth
Q. Yes.

Duncan
A. Any answer I give you would be a guess. Numerous times.

Nemeth
Q. More than 20?

Duncan
A. More than 20.

Nemeth
Q. That would be in that three or four year span since '90 or '91. More than 50?

Duncan
A. I really don't know, I don't know, I know that whenever I was at Industry I was a relief watch commander two out of five shifts, I was a watch commander for two years out there, and I can't tell you the number for here.

Nemeth
Q. Okay. For here, or well, over 20, is it somewhere between 20 and 50, or--

Duncan
A. It's over 20, and I don't know--

Nemeth
Q. Over 20, that's, that's, okay, fine. Alright. The night of the incident, well, let me ask you this, how long was Sergeant Mosley a sergeant, if you know.

Duncan
A. I don't know for sure, I thought he was still on probation, meaning, he had less than a year, but I'm not sure.

Nemeth
Q. Probation a year or six months for sergeants?

Duncan
A. Okay, you're right, six months. I had, I, I'm not sure how long he'd been here. He'd been here longer than six months, though.

Nemeth
Q. Okay. If I told you he had been assigned here seven months, does that sound about right?

Duncan
A. Okay, that's close.

Nemeth
Q. Okay. Did you ever go up to the scene of module 4400 yourself where this force incident occurred?

Duncan
A. Having worked 4000 for a year and a half, having been in that module hundreds of times, I knew exactly what it looked like, plus I had a sergeant that was responsible for doing the investigation. There was no reason for me to go up there.

Nemeth
Q. Okay. Alright, do you know how many other uses of force or, I don't know if you want to call it other major uses of force Sergeant Mosley had been involved in prior to this incident?

Duncan
A. Him, in particular, I don't know, but if you're a sergeant working line, you have to handle one a week.

Nemeth
Q. Okay. Did you consider the location in module 4400 where the force occurred a crime scene?

Duncan
A. The connotation that I get from your statement is like a murder scene, where you tape it off, you, you take pictures, you look for evidence, I did not consider it that, no. It was a crime

scene because a 49 was written, a battery on a peace officer took place there, and a crime scene had got roped off, taken pictures, people come and combed the area, I did not consider it that type of crime scene, no.

Nemeth
Q. Why not?

Duncan
A. No reason to. It's not like, I, I had four deputies that, that related information to me. The injuries that they related to me and that I saw on the inmate were not inconsistent. I had a sergeant that was up there that did a preliminary investigation when he first reported to me, and then went back up there and did a more extensive investigation of, as a watch commander, why do you have sergeants? If, you know, and as a crime scene, it's not one.

Nemeth
Q. Okay. Did you, did you ever instruct Sergeant Mosley to take photographs of the location to assist in the prosecution of the suspect for the assault on the deputy that was alleged in the police report?

Duncan
A. I don't recall telling him to take photographs, no.

Nemeth
Q. Okay. How about video tape? Did you direct anybody to video tape the location?

Duncan
A. I don't, I don't recall directing anybody to take any photographs of the, of module 4400 sally port, no.

Nemeth
Q. To your knowledge, does any video tape or photographs of that location where this force occurred exist, in connection with this--

Duncan
A. In connection with this force, no.

Nemeth
Q. Okay. Now, back when we talked to you earlier about this incident, we said there were four deputies involved, and you said that's what you were told, correct?

Duncan
A. That's correct.

Nemeth
Q. And, all four deputies participated in using force, correct?

Duncan
A. At different levels, but, yes.

Nemeth
Q. Okay, and this occurred in the sally port of module 4400, right?

Duncan
A. That's correct.

Nemeth
Q. Okay. Did you ever ascertain who was the module officer during the use of force, or who was relieving the module officer, or who was present in the module officer's security booth during the event?

Duncan
A. I never, I never ascertained that. You asked me that whenever you interviewed me as a witness, and I, I couldn't recall then, I can't recall now. I would think that there must have been somebody, but I don't recall.

Nemeth
Q. Okay. Alright. Alright, we're continuing with Sergeant Duncan's interview after a brief break to get a coffee refill, etcetera, the time is 2001 hours. Okay, Sergeant Duncan, prior to the tape break on the other side, I was asking you about a question I asked you in our previous interview, and we've looked up your transcript, and we found the section I was thinking about, and we both reviewed it, it's on pages 23 and 24 and essentially what it has to do with is by virtue of the explanation of four deputies all being involved in the use of force, and, and you being told that only those four deputies were present during the incident, my question to you was, in the previous interview, well, then, who manned the module, because there's a Central Jail security regulation that requires a deputy to be present in the security booth essentially at all times.

Duncan
A. That's correct.

Nemeth
Q. Okay, and I asked you if you inquired as to who that was, and then, in your previous transcript, you didn't remember who it was, and, but you did say that somebody must have told you something, because it satisfied you, because you didn't write it down, and you would have directed Mosley to do a censurable conduct had you discovered that the booth was unoccupied, correct? Is that essentially what we're talking about here.

Duncan
A. If that's what it says, you're, you're correct.

Nemeth
Q. Okay.

Duncan
A. And, and after your, the witness interview--

Nemeth
Q. Right.

Duncan
A. --I thought about it again, and I wish I could remember, and I can't.

Nemeth
Q. Okay, but do you remember, you may not remember the exact, but do you remember directing some inquiry into this question, is that true?

Duncan
A. I must have. I mean I can't believe that, that I didn't, and I wish I could remember.

Nemeth
Q. Alright.

Duncan
A. I really do.

Nemeth
Q. Okay. Is there any redress, or is there any, is there any explanation of who was in the module security area for the deputies during the use of force, is any of that ex, addressed in any of the deputies' written reports?

Duncan
A. No, it's not addressed in any of the deputies or the sergeants' written reports.

Nemeth
Q. Okay, and by sergeants, are you including--

Duncan
A. I'm sorry, Sergeant Mosley's report.

Nemeth
Q. Okay, and is there any mention of that, who was in the module booth during the use of force in your report?

Duncan
A. No, there's not.

Nemeth
Q. Okay, alright. Sergeant Gjendem? You got a couple questions (inaudible)?

Gjendem
Q. Yeah. I want to touch on another area, and that has to do with the force package, the word package, what is a force package?

Duncan
A. A force package is well, in '94, it was the old O.P.E.S. forms. It would be either a 49 or a primary deputy statement, and then the, if every deputy that used force would check primary, that form that you showed me earlier, on the top it says primary deputy, witnessing deputy, all they do is check one of the boxes, to describe who they are, and then they would write down either what they did, or what they saw, or both, depending on what happened, and then there's a memo from the, the sergeant, the floor sergeant, and then there's a memo from me, and that is a force package.

Gjendem
Q. Who's responsible for the overall completion of the force package?

Duncan
A. That would be the watch commander of the shift, that would be me.

Gjendem
Q. Okay. Who's responsible for seeing that the reports are complete in that package?

Duncan
A. That would be the watch commander, me.

Gjendem
Q. Did you see to it, on October 27, that all the forms were filled out properly?

Duncan
A. Obviously not, 'cause I didn't sign them, and I didn't read all the forms. I read the sergeant's memo, and I did mine, and I didn't sign off the deputies, and I don't recall reading it.

Gjendem
Q. Okay. A force package that's completed and there's, where does that force package go when you finish it?

Duncan
A. It goes in the tray that says operations, and it goes out to the captain.

Gjendem
Q. Okay. Do you know what happens to that force package when it gets out to operations?

Duncan
A. I've been told, but I, I don't know independently, no. I'm told that it goes to O.P.E.S., down to IA, and they do whatever they do with it.

Gjendem
Q. Okay. Do you know if it's filed out there in the--

Duncan
A. Oh, they, I'm sorry, operations keep a copy of it, I, yes.

Gjendem
Q. Is it your responsibility to make sure that that package is complete before it leaves your hands?

Duncan
A. It's my responsibility as a watch commander, yes.

Gjendem
Q. And at any time, did you have all the reports for that force package in your hand?

Duncan
A. No, I did not.

Gjendem
Q. Can you tell me why?

Duncan
A. Not until, not until now.

Gjendem
Q. Okay, can you tell me why you didn't?

Duncan
A. As I explained, whenever you, whenever you lose a witness, these guys can take an ungodly amount of time for the simplest report. If I were to wait for all the reports to be done, the captain wouldn't get, wouldn't get anything, and so, whenever, whenever I do mine, the sergeant does his, we attach them to the reports, and then they're sent out. Your going to ask me who attached all these reports together, I don't know.

Gjendem
Q. They just get in operations somehow, and they kind of join up, or--

Duncan
A. No, no, they, they all join up here. Either Sergeant Van Mosley put them together, or I put them together, put them in an envelope, and sent them off to operations, I don't recall.

Gjendem
Q. On this particular--

Duncan
A. On this partic--

Gjendem
Q. --you don't recall.

Duncan
A. I don't recall, on this particular case, but as you pointed out, it's my responsibility.

Gjendem
Q. Do you know what goes in that force package, do you know what was supposed to be in that force package in 1994, in October, was there supposed to be a copy of the in service, also?

Duncan
A. I, I, know there's one now. I can't, I can't tell you when, when that order came down, whether it was '94. I know now there's a copy of the in service that goes with it. I can't tell you whether in '94 there was one that was supposed to be in with it.

Gjendem
Q. Was there a copy in, in 1994, was there a copy of the medical records of the inmate, to his injuries attached to the--

Duncan
A. Inmate injury report, yes.

Gjendem
Q. To the force package?

Duncan
A. Yes, it's in the force package.

Gjendem
Q. Did you read that form?

Duncan
A. Yes, it's part of a package I have.

Gjendem
Q. And, Sergeant Van Mosley is under your supervision on that early morning shift, correct?

Duncan
A. That's correct.

Gjendem
Q. Did you know, did you know on October 27, that there were any deputies that witnessed force?

Duncan
A. The only deputies that I knew of were the four primary deputies that reported force.

Gjendem
Q. When the deputies told you about the force, the four deputies we're talking about, were they all together, and was Sergeant Van Mosley present also?

Duncan
A. Whenever you asked me this question as a witness, I recall that Sergeant Van Mosley and the four deputies were together and I, I talked to 'em. I also talked to Sergeant Van Mosley by himself, and I talked to Deputy Kluth by him, well, Sergeant Van Mosley was with me when I talked to Deputy Kluth.

Gjendem
Q. Okay.

Nemeth
Q. When Sergeant Mosley submitted his report as a supervisor of the incident, the floor supervisor, did he submit that to you for approval?

Duncan
A. For approval? He submitted it for my review. There is something that, that I wanted changed, he would have discussed it, but I'm not, it's not like approving a deputy's report, no.

Nemeth
Q. Okay, did you discuss any suggested changes with Sergeant Mosley on his report?

Duncan
A. The only thing I remember discussing with Sergeant Mosley was tactics.

Nemeth
Q. Okay, now, I'm just talking in regards to the report that Sergeant Mosley himself prepared, did you feel that document was complete in regard to explaining all the details of this event?

Duncan
A. Answering it from the 27th of October, '94, my answer--

Nemeth
Q. Yes.

Duncan
A. --would be yes, answering it today, it would be no.

Nemeth
Q. Okay, we're, again, and let me just make this, disclaimer for the tape. We're asking you questions that, that all pre-suppose you're just acting on the information you had on the 27th, okay? We're not asking you to be a mind reader, and project into the future the incidents that have since been discovered, but just based on what you knew on October 27, did you feel that Sergeant Mosley's report, as he submitted it to you, was a complete, thorough, accounting of the event, the force event?

Duncan
A. In October of '94, I thought it was acceptable, yes.

Nemeth
Q. Okay, acceptable, did you, did you ask Sergeant Mosley to add anything or take anything out of that report?

Duncan
A. Not that I recall, no.

Nemeth
Q. Okay. Is, do you think it was one of your duties as the watch commander to review his work to ensure, it was thorough, and accurate, and complete?

Duncan
A. Yes.

Nemeth
Q. Okay. When you earlier talked about responsibilities of a watch commander in a use of force incident, you, you stated some things that you felt were a watch commander's responsibility, namely to personally and without delay interview the injured party, or the party whom force was used upon, which you did, and video taped that, documented that, and then to prepare a memorandum of, of the event. Is it also your understating that another duty of the watch commander is to insure that the, the facts of the event

as they're reported to him match the circumstances of the injury, and, and seem to be accurate, and not suggest that's there more to the incident than is being reported, do you believe that's one of the duties of a watch commander in a force incident?

Duncan
A. Help me, on that, maybe it's a matter of semantics, but you say match the circumstances?

Nemeth
Q. Well, in other words, what's being reported to you, what you see in terms on injury on the inmate, and, and all the events surrounding a use of force. Do you believe it's part of your duty as a watch commander to evaluate all those things to determine whether or not you're not getting all the facts, or whether or not somebody's not reporting the entire event to you?

Duncan
A. You're right. It's my responsibility to, to talk to all these people, if I see some inconsistencies, excuse me, see something that I think is, is wrong, or questions, I would like then direct, or I felt that I couldn't direct someone to do it, then I would have to do it. In this case, after doing the interviews, during the tape, and every thing else, I saw no, no problem with the, the force.

Nemeth
Q. Okay. In regards to one of those inconsistencies, or one of those, or something that hadn't been reported to you, is that where this issue that we talked about earlier about who was inside the security area of module 4400, is that when you thought of that, and, and did some inquiry into that element of, who was present in there, and why, if nobody, why, why not, is that where that came up?

Duncan
A. Whenever they related the circumstances who was involved, it was an obvious question that came to my mind, and as I said before, I can't answer who was in there.

Nemeth
Q. Okay, you say the question came to your mind. Did you ask that question of somebody, though?

Duncan
A. I must have.

Nemeth
Q. Do you remember who you asked it to?

Duncan
A. I, I don't remember asking, asking the question, I'm saying I must have, 'cause it, it does every thing but slap you in the face.
Nemeth
Q. Okay, so, you, you're supposing you did, but you don't have an independent recollection that you did?

Duncan
A. I, I don't recall.

Nemeth
Q. Okay, so, of course, you don't know who you asked it to then, right?

Duncan
A. Obviously.

Nemeth
Q. Okay. Alright. One final thing, we covered it in your previous interview, at the time of this event, you, you were on your lunch break, is that correct?

Duncan
A. That's correct.

Nemeth
Q. Okay.

Duncan
A. I was in the gym working out.

Nemeth
Q. Okay, and that's, that's something that's a customary procedure at Central Jail, where personnel are afforded the opportunity to utilize their lunch break to, to use the gym, if they choose?

Duncan
A. Sergeants, lieutenants, captains, commanders, everybody does it.

Nemeth
Q. Okay. Alright, and that's where, the deputies knew that's where you were, and that's because you told somebody you were there, and that's how they found you, correct?

Duncan
A. Yes.

Nemeth
Q. I think that's all I have, Ernie.

Gjendem
Q. Just one last question, the memo that you wrote for the force package, who was that directed to?

Duncan
A. Captain Scaduto.

Gjendem
Q. So, that was, that was meant for Captain Scaduto's off, Captain Scaduto's office?

Duncan
A. That was from me, except from me to Captain Scaduto.

Gjendem
Q. Okay, and on your memo here, does it have any, does it say in there what you've included with your memo?

Duncan
A. Does it say what I include with it?

Gjendem
Q. Yeah, as far as the package goes, in your memo?

Duncan
A. Oh--

Gjendem
Q. Just a video tape and that's, makes mention to it?

Duncan
A. Well, not just the video tape, but it doesn't--

Gjendem
Q. If I told you there are--

Duncan
A. --I don't list every thing that's what it, no.

Gjendem
Q. Okay.

Duncan
A. I know that there's now a check off, but--

Nemeth
Q. You know there's now what, I'm sorry.

Duncan
A. There's a check, there's a check off sheet that we have now, and just like whenever you ask me the question about did I put an in service, I know that we now do that, I can't tell you whether that was a rule at the time, and I can't tell you whether we had the check off sheet at the time.

Nemeth
Q. Alright, that's all the questions we have for you. Now, this is your opportunity to add any elements that we haven't addressed that you feel are relevant, or any statements that you want to make for the record. Is there anything you want to add at this time?

Duncan
A. No, I can't think of anything, basically, you've asked, asked all the questions. I think that, that as a watch commander, I, I investigated it as far as I could. The information that I got, both from the inmate, the sergeant and the deputy, there was nothing, there was nothing that came up that was inconsistent. The only question that I can't answer now is who was in the booth at the time, but again, all, all the things that I've asked, all the things that I saw, there was nothing that, that led me to believe, and obviously, there's an investigation because he lost one of his testicles, I think I, I said in, whenever I was a witness, I had the inmate moved, so I could get a better shot of his, the injuries on his head. He never groaned in pain, he never grabbed his, his stomach or his groin, he never indicated any other injuries other than, than his head, and then he only indicated the one, and was oblivious to the others.

Nemeth
Q. Okay. Anything else, Lieutenant Milburn is there anything you would like to add. Shaking his end no for the tape. Okay.

Gjendem
Q. Well, I just got one question. Do you feel it was your responsibility to make sure that this package was a package complete in its totality before it left your office as a watch commander?

Duncan
A. As a watch commander, that's my responsibility.

Nemeth
Q. I think if I understood your answer to it before, it was, though, you felt the deputies would be delayed in submitting their reports, and you wanted the, the unit to have, the unit operational staff to have some notification of what occurred, and that's why you submitted yours in advance of the others, is that right?

Duncan
A. Well, I didn't say I submitted it in advance, I said I did it. I typed my memo before I had any written memos, or writings from anybody else. Either Sergeant Van Mosley or myself, and I can't tell you who, put this together, and sent it out to operations.

Nemeth
Q. Okay.

Duncan
A. It was not, my memo did not go out, and then something else followed. At that time, and now, they're submitted as a package, and by package, I'm talking about the video, if there's an audio tape, and all the reports, and as you, quite poignantly made, it's a watch commander's responsibility.

Nemeth
Q. Okay, so in other words, you're saying you typed your memorandum, you can't remember whether your personally did or somebody put it together, so when it left the jail side, the security, side, heading towards the operational staff office, it was one unit, one package, to the best of your knowledge, is that what you're saying, right?

Duncan
A. Yes. If there was a problem with it, the captain would have gotten back with me, 'cause the--I know it goes out to the captain's office, and it's reviewed out there. I never heard any more about it, so I assumed that he was satisfied.

Nemeth
Q. Okay. Just one more thing to follow up on that. If, if you are, like you said, checking on the totality of circumstances to make sure the incident is, is actually as it was reported to you, correct, did you ever review those reports submitted by the deputies prior to the whole package being submitted?

Duncan
A. I don't recall doing that, no.

Nemeth
Q. Okay, alright.

Gjendem
Q. If you would have, would you have noticed some discrepancies in this, you've since read these now, correct?

Duncan
A. Right.

Gjendem
Q. Not discrepancies, some differences.

Duncan
A. Well, there's, there's not discrepancies that I saw in there, there's lack of detail, is what I saw. I don't see discrepancies.

Gjendem
Q. Okay, lack of detail.

Duncan
A. Okay, there's lack of detail, and the knowledge that I had in '94, as compared to what I have now would be different. I don't know whether in '94 with the, the force process, 'cause that was just starting up, this the type of package that we now have, and I don't know whether I would have changed it, from what it, in '94 from what it is now. I know today I would, but you're talking about another two years, and a lot more education on the force.

Gjendem
Q. Okay. I don't have anything else.

Nemeth
Q. Alright, that will conclude the interview, time is 2023 hours.

END OF INTERVIEW

ADMINISTRATIVE RIGHTS/SWORN SUBJECTS

I am **Sergeant John Nemeth** and this is **Sergeant Ernie Gjendem** of the Internal Affairs Bureau, which is commanded by Captain Norman L. Smith.

You are about to be questioned as part of an official Los Angeles County Sheriff's Department administrative investigation.

Do you have a Policy and Ethics Chapter of the Manual of Policy and Procedures? Yes [✓] No [ ]
Are you familiar with its contents? Yes [✓] No [ ]

You are specifically reminded that Policy and Ethics Section 3-01/040.70 requires that you make truthful statements and Section 3-01/040.75 requires that you make full and complete statements.

This investigation concerns: (Explain allegations /basic reason for investigation.) PERFORMANCE TO STANDARDS, REPORTING USE OF FORCE

If this were a criminal investigation any statements you made could be used against you in a court of law. Since this is an administrative investigation, neither your statements nor any information or evidence which is gained by such statements can be used against you in any subsequent criminal proceeding. However, these statements may be used against you in subsequent administrative actions.

You are being ordered to answer questions specifically related to the performance of your official duties and/or your conduct as related to your employment with the Department.

You have the right to remain silent, and you have the right to the presence and assistance of counsel. You are hereby notified that although you have the right to remain silent, failure to answer questions directly related to this administrative investigation may result in your discharge or other punitive action.

You have the right to have a representative of your choice, who is not involved in this investigation, present with you during your interviews. You may tape record this interview if you wish. **You are being ordered not to discuss the facts of this case or any of the issues discussed during your interview with anyone other than your designated representative or attorney in this matter.**

Initials [initials]

The above admonition has been explained to me and I understand its contents.

DATE: **January 8, 1995** FILE NO. **IAB 008383**

SUBJECT: (Signature) [signature] (Print) SERGEANT CHARLES DUNCAN SR.

INVESTIGATOR: (Signature) [signature] (Print) **John Nemeth**

DEP. TODD KAMMER
I.C.I.B. INTERVIEW 12-20-94

WITNESS INTERVIEW

CASE NUMBER 494-00023-2300-444

TODD KAMMER

Hamilton
Q. Okay, today's date is December 20, 1994. It's approximately 0103 hours. I'm here at Men's Central Jail, 9000 Floor, with Deputy Todd Kammer, employee number [redacted] We're here to discuss an incident that occurred on October 27, 1994, in Module 4400 on early morning shift. This case is being investigated under ICIB file number 494-00023-2300-444. I'm Sergeant Eric Hamilton from ICIB. Deputy Kammer, prior to coming on tape, did we discuss this incident briefly?

Kammer
A. Yes.

Hamilton
Q. Okay. Can you just expound on what we talked about.

Kammer
A. Basically there were deputies involved in a force matter in 4400.

Hamilton
Q. Okay. Alright, did we talk about anything else, other than your Siberian Husky and your...

Kammer
A. No.

Hamilton
Q. Okay, were you present on October 27th of this year, here at work in Men's Central Jail?

Kammer
A. Yes, I was.

Hamilton
Q. Okay. What were you doing that particular day? Where were

you assigned?

Kammer

A. I was assigned 9000 Roving Patrol.

Hamilton

Q. Okay. Did you have a chance to go down to Module 4400?

Kammer

A. Yes, I did.

Hamilton

Q. Why was that?

Kammer

A. We responded to a call, deputies involved, off the PA from 5000.

Hamilton

Q. Okay.

Kammer

A. And we, myself, Deputy Broad, Deputy Romero, and then later, Deputy Barrett, responded to 4400.

Hamilton

Q. Okay, and what happened?

Kammer

A. Myself, Broad and Romero got there. Romero went in first and we followed behind him. When we got in there, Deputy Sloan asked Deputy Romero to hold the door. Romero did. Sloan walked out of the booth to help, help subdue the inmate that was on the floor. Myself and Deputy Broad noticed that the inmate was yelling and screaming. Each of us grabbed the leg and held the leg down to the ground to hold the leg so it wouldn't kick around anymore. And I, I can't remember which deputy. I'm, I can't remember if it was Deputy [redacted], or Deputy Sloan that had come in. They were towards the, towards the lower torso area and, I believe, one of them was attempting to handcuff him while we held his legs down.

Hamilton

Q. Okay.

Kammer
A. After, after they, they got him handcuffed and then, I'm vague, I don't know which one, but somebody had placed a hobble cord on him. And once the hobble cord was placed on him, that was when we got up and we had, we no longer had to control his legs any longer.

Hamilton
Q. Okay. Go ahead.

Kammer
A. Once he was done, that was it. I remember Deputy Barrett responded. He, he responded after and when he walked in we, we had already hobbled the guy and he was already laying on the ground, controlled. And then myself and Deputy Broad, we asked the deputies that were involved initially if they needed any, anything done. They said, "No." We said, "Okay." And all, all three of us, myself, Deputy Broad and Deputy Barrett, we went back up to 9000, and then Deputy Romero came back up about five minutes later, and that was...

Hamilton
Q. Anything else?

Kammer
A. That was it. That was all I remember...

Hamilton
Q. Okay.

Kammer
A. ...doing.

Hamilton
Q. Let's, let's go back to the beginning.

Kammer
A. Okay.

Hamilton
Q. You said that you responded with Deputy Romero and Broad.

Kammer
A. Correct.

Hamilton
Q. Okay. Now, you also said that you heard a announcement...

Kammer
A. Correct.

Hamilton
Q. ...over the PA system?

Kammer
A. Yeah, it was off the PA system on 5000, I believe.

Hamilton
Q. Okay.

Kammer
A. It didn't go out over the radio.

Hamilton
Q. Okay, so 5000 is right below your floor...

Kammer
A. Yes, right below.

Hamilton
Q. ...right below you.

Kammer
A. Yes.

Hamilton
Q. So you guys heard that there was a 415, deputy involved, in that module and that's why you went down there.

Kammer
A. Correct.

Hamilton
Q. Okay, how did you get in the module? Was it open or...

Kammer
A. That, see, I don't remember. All, all I remember is going in. I don't, I didn't pull out my keys. I, I don't remember the door. See I don't remember the door being locked or open and that's, that's why I'm vague on that.

Hamilton
Q. Okay, that's fine.

Kammer
A. I remember just making entry, and...

Hamilton
Q. Okay. That's fine.

Kammer
A. I know Deputy Romero is, he was in first.

Hamilton
Q. Okay.

Kammer
A. And I'm not sure if he pulled out his keys or, or what and I remember hearing keys later on. I think Deputy Barrett had to key himself in, so I think the door got locked somehow. Maybe we might have keyed ourselves in and then when he came down, the door had already closed and he had to key himself in. Because I remember him using his keys, but that...

Hamilton
Q. How about the door? Maybe somebody in the booth may have popped the door?

Kammer
A. No.

Hamilton
Q. It was open (inaudible)...

Kammer
A. Yeah, because when we went in there, Deputy Sloan was standing in the doorway to the booth. So there's no way he can pop...

Hamilton
Q. Right.

Kammer
A. ...the sally door from the booth, if the booth door is open.

Hamilton
Q. When you went in there, when you guys, when you went in there, who else was in there as far as deputies? Besides the people in...

Kammer
A. I remember seeing...

Hamilton
Q. ...9000?

Kammer
A. I remember seeing Deputy [redacted] Deputy [redacted] Deputy Kluth, and Deputy Sloan.

Hamilton
Q. Okay.

Kammer
A. And Deputy Sloan was in the doorway when we first got there.

Hamilton
Q. Okay, and you're talking about in the control booth?

Kammer
A. Correct. He was, he was standing in the door was, doorway open.

Hamilton
Q. Okay. Where was Deputy [redacted]

Kammer
A. I believe he was out towards, I, I can't remember if he was on the left or right-hand side, but he was up towards the upper torso of the, the other guy...

Hamilton
Q. Okay.

Kammer
A. ...trying to control his upper, upper area.

Hamilton
Q. Let me back up a little bit.

Kammer
A. Okay.

Hamilton
Q. Okay. Was the inmate standing up or on the floor?

Kammer
A. He was on the floor already.

Hamilton
Q. Okay...

Kammer
A. He was laying face down.

Hamilton
Q. Okay. Where was he in reference to the control booth. Was he facing...

Kammer
A. If you were face...

Hamilton
Q. ...his own...

Kammer
A. If you were walking, if you were walking in, just walking in, he was off to the right-hand side. There's a little in-cave that goes to the, I think that's the Baker, Baker-Denver rows...

Hamilton
Q. Right.

Kammer
A. ...and it was towards that area. There's a shower, the two showers, and he was on the floor.

Hamilton
Q. Okay.

Kammer
A. If you were looking out the booth, it would have been to the left of the booth.

Hamilton
Q. Okay, and he was on the floor? Do you know which way he was facing?

Kammer
A. He was facing his, his head was towards the bar because when we went in there, his feet were moving around and, like I said, Sloan had jumped out and was heading for that area and we grabbed around his, his ankle/calf area to hold his legs down because they were whipping around...

Hamilton
Q. Okay.

Kammer
A. ...so his legs were facing us when we went in, so...

Hamilton
Q. Okay, so his legs were facing towards the front of the module, where the module door is located?

Kammer
A. Correct, yes.

Hamilton
Q. And his head was facing towards the showers in Bravo row?

Kammer
A. Correct.

Hamilton
Q. Okay, and you said that his feet were moving.

Kammer
A. Yes.

Hamilton
Q. Okay, so...

Kammer
A. Yes.

Hamilton
Q. Let me get understanding, Deputy [redacted] was positioned where?

Kammer
A. He was up in the upper torso area.

Hamilton
Q. Okay, (inaudible)...

Kammer
A. Himself and...

Hamilton
Q. ...on the side or is he straddling...

Kammer
A. I think he was up...

Hamilton
Q. ...the guy?

Kammer
A. He was up towards, he was up towards the shoulder area, around his head.

Hamilton
Q. So he was, he was in front of the guy? Standing in front or...

Kammer
A. Like towards the side.

Hamilton
Q. Okay.

Kammer
A. He wasn't standing there. He was on top of him.

Hamilton

Q. Okay, on top of his body.

Kammer

A. Yeah, on top of his body. Like trying to...

Hamilton

Q. What, what part of his...

Kammer

A. ...hold him down.

Hamilton

Q. What part of Deputy [redacted] body was on top of the inmate's body? Was it knees, feet...

Kammer

A. I believe, no, I believe he had his, I...

Hamilton

Q. ...arms?

Kammer

A. I think he had his arm, arms and he was kind, he kind of had his arm wrapped around him like he was holding him down like, kind of like a wrestling move and he had his body, his upper torso area laying, on top of the, the, the inmate.

Hamilton

Q. So he was off the side laying over the inmate?

Kammer

A. Kind of, yeah. Putting his body weight on top of him.

Hamilton

Q. You said he had his arm around what? His upper torso, his neck, his head?

Kammer

A. I can't remember. I, I don't know if it was his neck or like lower, I believe it was like the lower part of his neck. He kind of had him like, he was coming across the top from the, the shoulder down and had him towards under the arm, I believe it was,

because he didn't have him around the neck.

Hamilton
Q. Okay. Where was Deputy [redacted]

Kammer
A. Deputy [redacted] I believe he was just be-, I think he was behind [redacted] on the left-hand side also. I think it was on the left-hand side. Yeah, because [redacted] was on the left-hand side and [redacted] was on the left-hand side, because he was near the lower torso trying to hold his, his legs and the middle torso of his body down. And then when Sloan came out of the booth, he went towards the, the lower torso or the right side...

Hamilton
Q. Okay.

Kammer
A. ...'cause that's as far as I can remember. Because then Broad grabbed his right leg and I grabbed his left leg in the lower area and we held him down.

Hamilton
Q. Okay, let me, let me just back up. Now you're saying [redacted] and [redacted] were side by side. Is that what you're saying? One was holding the upper body...

Kammer
A. Yeah...

Hamilton
Q. ...the other one sort of mid to lower...

Kammer
A. Yeah.

Hamilton
Q. ...part of the inmate's left side of (inaudible)...

Kammer
A. Yeah, because by the time, by the time we got in there, I, I believe it was, it was Deputy [redacted] that pulled out the handcuffs and finally handcuffed the guy. I think. Because it was either

him or Deputy Kluth because I think, no, it wasn't Kluth.

Hamilton
Q. I think we're going to get...

Kammer
A. No, it wasn't Kluth. Kluth was on the other side...

Hamilton
Q. Okay.

Kammer
A. ...from [redacted]

Hamilton
Q. Okay. Where was, you said Sloan came out of the booth after he was replaced?

Kammer
A. Correct.

Hamilton
Q. And he grabbed the lower right side of the inmate's, he grabbed his legs, or his low...

Kammer
A. He was like, he was positioned like [redacted] trying to control his, like the upper thighs, buttocks and mid-torso area.

Hamilton
Q. How was he doing that?

Kammer
A. By laying on top of the guy. And then they were, in the process, Kluth, I think it was Kluth who was trying to get his arms back and, I believe, Sloan finally got control of that and that's when they already had control of the other arm. And then that's why I say, I think it was Deputy [redacted] that handcuffed him, but, you know, I, I can't be too sure about that one.

Hamilton
Q. Well let me just get a clear picture, so Sloan grabs the guy's mid to lower portion, his legs.

Kammer
A. Yeah, I believe so.

Hamilton
Q. And maybe his, his upper thigh area. And you're saying he's laying on top of him, or he's actually laying his body on top of him, or was he, had his hands on top of his body pushing it down, or trying to keep him down?

Kammer
A. I can't remember. All I know is that he was, he was in that general area and I can't remember, because he was kind of moving around trying to get the arm at the same time.

Hamilton
Q. Okay. And that, which arm was that?

Kammer
A. That would have been, that was the right arm.

Hamilton
Q. Okay. And Kluth was where?

Kammer
A. He was on the upper right torso area.

Hamilton
Q. Okay. And what was he doing?

Kammer
A. He was, he was holding the, he was holding the inmate's body down, I believe, and in the process, he was trying to get his arm back because that's when we got in there. They were trying to get the arms back so they could handcuff him. So...

Hamilton
Q. Did you see at any time any deputies striking this guy to get him to bring his hands back or stop doing whatever he was doing?

Kammer
A. No, I didn't.

Hamilton
Q. You didn't see...

Kammer
A. No, I didn't, because by the time I got in there, I saw how they were positioned, I can describe, but by the time I got in there, they were already in the hands back. And we had, we were both holding the legs down. We were I mean, like face, we were facing down. We were [unintelligible possibly weren't] really watching what was going on...

Hamilton
Q. Okay.

Kammer
A. ...up top, only to the process and when I saw him pulling out the handcuff and then finally getting everything together, and then they finally handcuffed him.

Hamilton
Q. When you say with both of them (inaudible) holding him down...

Kammer
A. Myself and Deputy Broad.

Hamilton
Q. Okay, you were holding down the legs.

Kammer
A. Correct, we had, like I, I described, we had between his, his calf/ankle area and were holding him down, so he couldn't kick anymore.

Hamilton
Q. Okay, was he kicking?

Kammer
A. Yeah, he was. When we walked, when we got in there, he was kicking around.

Hamilton
Q. What, what was he doing?

Kammer
A. Kind of like the squirming and moving and yelling and just, you know, basic, basically like what anybody would do, you know.

Hamilton
Q. Was he trying to, was he moving his legs to kick somebody, was he just moving around, or was he moving his left (inaudible)...

Kammer
A. I don't, I, I mean, I can't really say if he was trying to kick anybody, but when we got in there, I mean, his legs were kicking around so much that, I mean, at any time he could have kicked anybody. He could have kicked anybody at any time.

Hamilton
Q. When he's laying face down?

Kammer
A. Yeah, he was laying face down.

Hamilton
Q. So in or...

Kammer
A. And then, and, yeah, yeah.

Hamilton
Q. So, in order for him to kick somebody, how would he do that, laying face down?

Kammer
A. Just rolling over, trying to roll over on his side. That's why they had the body weight on him because he kept trying to like squirm and roll over on his side. So, that's why [redacted] and he kept, far as I can remember, he kept trying to go to his right side, trying to roll over. And that's why we kind of grabbed his legs and put him down so he couldn't turn any more.

Hamilton
Q. So you're saying that you didn't see any deputy strike this guy, whether it means a punch or kick or knee strike or impact weapon or anything like that?

Kammer
A. No, I didn't.

Hamilton
Q. You never saw that?

Kammer
A. No.

Hamilton
Q. Okay. Are you saying that they didn't do it, you, or you...

Kammer
A. I don't, yeah...

Hamilton
Q. Are you saying there's a possibility...

Kammer
A. I'm not saying...

Hamilton
Q. ...they did it and you didn't see it?

Kammer
A. It's a possibility they could have done it, but by the time I got down there, they, none of it was going on. They were trying to subdue the guy and, like I said, they, they were trying to put the handcuffs on him and bringing arms back, so...

Hamilton
Q. When you grabbed his legs, how did you guys grab his legs? Did you bring them together? Did you spread them apart? Did you just hold them...

Kammer
A. Actually we...

Hamilton
Q. ...some place?

Kammer
A. We spread them apart a little bit.

Hamilton
Q. Why?

Kammer
A. We spread them apart.

Hamilton
Q. Why?

Kammer
A. To keep his body, body centered so he couldn't turn one way or the other, evens out the balance of the body, the lower body, so he really doesn't have too much leverage.

Hamilton
Q. Did anybody come behind you? Any other deputies?

Kammer
A. Like I said, Deputy Barrett arrived later, but by that time, by the time Barrett had arrived, we already had the guy hobbled and handcuffed.

Hamilton
Q. Okay.

Kammer
A. So it was, it was...

Hamilton
Q. So, you (inaudible)?

Kammer
A. ... over. Not that I'm aware of?

Hamilton
Q. Okay. When you, when the guy, when you guys, we, well first of all, who put on the hobble?

Kammer
A. I, you know, that's the whole thing, I, I can't remember. I can't remember.

Hamilton
Q. Okay. Did you let his legs go, or did you bend his legs? Did you (inaudible)...

Kammer
A. I remember, I remember letting his legs go.

Hamilton
Q. Okay.

Kammer
A. And that's why I think, I think, because then deputies, I think it was Deputy [redacted] or Deputy Sloan, one of them had slid down towards where we were and both of us, because they already had him handcuffed and both of us let go, and because they said they had, they had control, okay, so we got up because there was already, you know, enough people there, so, and that's when, I believe, one of them put the hobble on him. But...

Hamilton
Q. Did they stand up or, or did they maintain a kneeling position?

Kammer
A. I think they were still kneel, kneeled down.

Hamilton
Q. Okay. Did they grab their legs?

Kammer
A. Yeah, yeah.

Hamilton
Q. They grabbed, they grabbed the inmate's legs?

Kammer
A. Yeah.

Hamilton
Q. And did you, you didn't see who put the hobble on?

Kammer
A. No, I didn't.

Hamilton
Q. Was the inmate cooperative after he was handcuffed or...

Kammer
A. He was still yelling and screaming...

Hamilton
Q. Well what...

Kammer
A. ...and trying to, trying to squirm around, but he pretty much, I'm, he wasn't going to go anywhere.

Hamilton
Q. Okay, was he, you used the term "he was squirming around," was he...

Kammer
A. He was still trying to move a little bit.

Hamilton
Q. ...violently squirming around?

Kammer
A. No.

Hamilton
Q. Or was he just kind of like most of us would be, yeah, you know, get away from me type?

Kammer
A. Yeah, he was just squirming, not violently.

Hamilton
Q. Okay. And how did they put the hobble on?

Kammer
A. I, I don't know. I don't know.

Hamilton
Q. Why not?

Kammer
A. Because I wasn't, I wasn't watching. I wasn't...

Hamilton
Q. You were (inaudible).

Kammer
A. ...watching. By the time, when he got up, Deputy Broad, he had a, a (inaudible), they, they took over the legs after we got up, okay, and I remember Broad looked over, he had a, a cut on his finger, and I believe he said it was from a, a paper cut from earlier from the night and it had opened up again. And I said, "Oh man, let's go, let's go take care of that." So Deputy Barrett was, well, and Deputy Barrett had all, no, he, he came in afterward. Let's see, I told Broad that we should go up and take care of it and that's when we got up and I believe that, that's probably when they put the hobble on. Because then when we got up, Barrett had come in and we came back upstairs right after that because of his finger and he wanted to wash it out, so, yeah.

Hamilton
Q. Okay, so you're saying that you guys got up and left the deputies there with this inmate?

Kammer
A. Yeah, yeah. And then when Broad got done washing his hands, I called down to Sloan and asked him if he needed any, anything to take of, paperwork or any, anything he wants, so...

Hamilton
Q. Did you ever see the deputies, did they spread this guys feet apart as well?

Kammer
A. Not that I'm, no. We did, when we got down...

Hamilton
Q. Yeah, you did. But once they relieved you, they meaning...

Kammer
A. No, they put...

Hamilton
Q. [redacted] and, and Sloan, did they maintain that position?

Kammer
A. I believe so (inaudible).

Hamilton
Q. Did they ever lift the guy's legs up?

Kammer
A. I don't know. They would have had to, to put the hobble on, but I didn't, I didn't see that, so...

Hamilton
Q. You, you didn't see that because...

Kammer
A. No.

Hamilton
Q. ...what?

Kammer
A. Because we had already gotten up and we were facing, we were facing the opposite direction.

Hamilton
Q. Okay. Let me ask you something. When, when you, when you talk and you, just tell me what, you know, whatever happened. If you were just fighting with an inmate in the...

Kammer
A. Well we weren't really fighting with him...

Hamilton
Q. Well he was...

Kammer
A. I mean, we, he was already pretty much controlled by the time we got down there and the handcuffs were being placed on and like I say, we had control of his legs. But then when Deputy Sloan and [redacted] took over, I mean, they, he wasn't, I mean, he wasn't doing anything any more, you know, his legs were pretty much done. He

wasn't...

Hamilton

Q. Okay.

Kammer

A. So I...

Hamilton

Q. I'm just kind of curious, I mean, you're saying that the guy, they were attempting to hobble this guy and they hadn't succeeded at that point that you, when you guys got up and you're saying that you never saw them put on the hobble and you guys turned away from where these deputies, still struggling with this guy, although...

Kammer

A. Right.

Hamilton

Q. ...he wasn't violent, he, they were still struggling, attempting to put on the hobble and you guys didn't see them do that. You turned your back on what was going on and I just kind of find that to be a little unusual. That's why I'm inquisitive about...

Kammer

A. Yeah.

Hamilton

Q. ...what happened and why, why didn't you see them put on the hobble?

Kammer

A. Right.

Hamilton

Q. So...

Kammer

A. Right.

Hamilton

Q. ...you're saying that you turned around to do what?

Kammer
A. Well, like I said, Broad had noticed a cut on his finger and I said, "Oh man, we should," you know, I was looking at it and I go, should go take care of that because Sloan and [redacted] had control of his legs already and we figured it was over, so we decided, you know, we'll go upstairs, take care of this so that's when we had turned, so...

Hamilton
Q. And you, did you see the hobble on, or you didn't?

Kammer
A. No, I didn't see. I didn't see it on...

Hamilton
Q. Did you see the...

Kammer
A. We had already, we had already left.

Hamilton
Q. So you did not see them actually, you didn't see them place the hobble on the...

Kammer
A. No, I didn't.

Hamilton
Q. ...on the guy. Did you see the hobble on the guy...

Kammer
A. No...

Hamilton
Q. ...at all?

Kammer
A. ...I didn't.

Hamilton
Q. So you...

Kammer
A. Because like I said, we had, we had left already.

Hamilton
Q. Because of the injury and you thought that...

Kammer
A. Right.

Hamilton
Q. They had him...

Kammer
A. Right.

Hamilton
Q. ...under control.

Kammer
A. Right.

Hamilton
Q. So you never saw this guy hobbled.

Kammer
A. No. I didn't.

Hamilton
Q. Okay. Alright, so while you were there, just prior to you leaving going back up to 9000, did you hear the guy scream, "I give," or did, "Stop hitting me," or....

Kammer
A. I didn't, I didn't hear him say anything.

Hamilton
Q. Okay, he never, you (inaudible)...

Kammer
A. The, the only time I, I heard him yelling, I heard him yelling, but I didn't make out what he was saying.

Hamilton
Q. Okay.

Kammer
A. I couldn't make out what he was saying.

Hamilton
Q. Okay. Did he, did you hear anybody punch him?

Kammer
A. No.

Hamilton
Q. Kick him? Do any strikes, impact weapons, flashlights?

Kammer
A. Nothing.

Hamilton
Q. You didn't see any of that?

Kammer
A. I didn't see any of that.

Hamilton
Q. Did you hear the deputies saying anything to this inmate? Using...

Kammer
A. They were just trying to...

Hamilton
Q. ...profanity or...

Kammer
A. They were telling him, no, they were just telling him to, to stop resisting, stop moving around, you know. You know, normal commands you would give somebody that you're trying to handcuff and, you know, control.

Hamilton
Q. Alright.

Kammer
A. You know, but I didn't, I didn't hear him say any cuss words to the guy any profanity...

Hamilton
Q. It's okay that he cusses...

Kammer
A. Yeah, I, but I didn't...

Hamilton
Q. ...(inaudible) at all. I'm just wondering...

Kammer
A. Yeah, see I didn't hear him say anything...

Hamilton
Q. ...what was happening on (inaudible)...

Kammer
A. Yeah. I didn't hear any, anything being said to this guy that was, that was other than commands to get him to stop.

Hamilton
Q. Okay. Such commands as what?

Kammer
A. "Stop moving around." "Let us, let us handcuff you," you know. Some remark, I mean, they might have said, "Knock it off," or something like that or...

Hamilton
Q. Okay.

Kammer
A. But most of them were just, you know, stop, you know.

Hamilton
Q. So you're saying, okay, let me just get back. So you're saying that you and Deputy Broad left prior to a hobble being placed on the guy, right?

Kammer
A. Correct.

Hamilton
Q. Well, didn't you tell me earlier that Deputy Barrett arrived after the guy, the hobble was already on the guy and things were done?

Kammer
A. Right. He arrived, he arrived, he arrived and that was when we were just, we had just gotten, gotten up and were getting ready to leave and we told him well, we told Barrett we're, "Hey, we're getting ready to go, go upstairs, Broad cut his finger." And that's when, I believe, they had the hobble on the guy because Barrett had told me that they hobbled the guy and...

Hamilton
Q. Okay, but you never saw the hobble.

Kammer
A. But I never saw the hobble, no.

Hamilton
Q. Okay. And, okay, because I'm trying to get it clear because you said that the hobble was on him. Did, when did Barrett tell you the hobble was on the guy?

Kammer
A. This was at, this is after, was when he walked in, so this would have been, I mean, they had to have hobbled him right after we got up.

Hamilton
Q. But your, you never...

Kammer
A. But we didn't see, we didn't see him hobbled. We, I mean, I can sit there, we did not see him get hobbled.

Hamilton
Q. So there, as you're walking out the door, Barrett says, "He's hobbled"?

Kammer
A. No, he doesn't say that. I talked to him after he came back up and hobbled him and everything else.

Hamilton
Q. Okay. So he said that after you guys came, as he came back up, he tells you that the, the guy was hobbled.

Kammer
A. Yeah.

Hamilton
Q. Okay. So that means, prior to you guys leaving, the guy was not hobbled. Correct?

Kammer
A. Correct.

Hamilton
Q. When you walked out of the door, was the guy hobbled?

Kammer
A. I believe so because talking to Barrett later, he said that when we, when we were getting ready to leave they were, they were placing it on, so the guy had to have been hobbled.

Hamilton
Q. Okay. They were in the process of...

Kammer
A. Right.

Hamilton
Q. ...hobbling the guy.

Kammer
A. Right.

Hamilton
Q. He was not, when I say hobbled, meaning they were done.

Kammer
A. Yeah.

Hamilton
Q. Okay, so they were in the process as you guys...

Kammer
A. Yeah.

Hamilton
Q. ...were walking out the door.

Kammer
A. Yeah, because Deputy Barrett arrived, he arrived just as, I mean, just when it was done and the guy was already handcuffed and...

Hamilton
Q. Okay. Let's go off tape for a second, okay? Okay, we're back on tape, briefly discussed some matters, but it's resolved. You had mentioned, when you first came into the module, was the inmate bleeding (inaudible)?

Kammer
A. Yes, he was.

Hamilton
Q. Where?

Kammer
A. I believe up, up, I think it was near his head.

Hamilton
Q. Okay, was he bleeding a lot, a little? Medium, moderate amount?

Kammer
A. Maybe a medium amount, medium amount.

Hamilton
Q. Okay. From, you said from his head?

Kammer
A. I believe it was from his head. I, I really don't know. I didn't get too much of look from up there.

Hamilton
Q. Okay.

Kammer
A. Because I...

Hamilton
Q. But you...

Kammer
A. Because we, we walked in, we saw it, and we went right for his legs, so...

Hamilton
Q. Okay. Did you ever wonder or did you ever ask how he was injured?

Kammer
A. No.

Hamilton
Q. Okay. You never asked?

Kammer
A. No, I didn't.

Hamilton
Q. And you never saw a deputy do anything, punch, kick or anything?

Kammer
A. No, I did not.

Hamilton
Q. Okay. Okay, you, when we went off tape, you were saying that you were leaving and the guy was not hobbled and Deputy Barrett was standing at the door, so you, you really didn't see him being hobbled.

Kammer
A. No, I didn't.

Hamilton
Q. You don't know who hobbled him.

Kammer
A. No, I don't.

Hamilton
Q. Okay. And you later talked, when you went up to 9000, you and Deputy Broad, did Deputy Romero...

Kammer
A. Uh-huh.

Hamilton
Q. ...and Deputy Barrett stay behind?

Kammer
A. Barrett, Barrett, I believe, followed us back up a little bit later. He just came, I mean, he was maybe a few seconds behind us. He went in and, like I said, it was over and he was in there for a few seconds, and then he, he left. He followed us. He was back up on the floor right after we got up.

Hamilton
Q. Okay, how long after? A minute, five minutes?

Kammer
A. No, it was less than that. Maybe, maybe a few seconds, thirty seconds. He was, he was a few seconds behind us, right after we left.

Hamilton
Q. Did he ever go inside the module?

Kammer
A. No.

Hamilton
Q. Okay. So you...

Kammer
A. Well he went inside, I mean, he went inside the door because he was in the sally port area.

Hamilton
Q. Did he ever walk over to where the inmate was at?

Kammer
A. I don't know.

Hamilton
Q. While you were there.

Kammer
A. While I was there, he was heading in that direction, but...

Hamilton
Q. Okay, so as you guys were leaving, he was walking towards...

Kammer
A. He was coming in.

Hamilton
Q. Okay. But he was, he's, you guys kind of passed him.

Kammer
A. Yeah, we passed each other.

Hamilton
Q. Okay. As you and Deputy Broad were leaving, he was walking in and...

Kammer
A. Right.

Hamilton
Q. ...moments later, thirty seconds later or so...

Kammer
A. Yeah, he came back up.

Hamilton
Q. ...you saw him back up there at 9000.

Kammer
A. Yeah.

Hamilton
Q. Okay. Did he mention anything to you as far as...

Kammer
A. No.

Hamilton
Q. ...anything, observations?

Kammer
A. No.

Hamilton
Q. Okay. How about Deputy Romero?

Kammer
A. He came up, like, like, three or four minutes later.

Hamilton
Q. Okay, and did he...

Kammer
A. He was down there for awhile because, like I said, he was standing in the, the doorway. He had relieved Sloan...

Hamilton
Q. Okay.

Kammer
A. ...where Sloan was standing.

Hamilton
Q. Did he mention anything to you about the incident?

Kammer
A. No.

Hamilton
Q. You guys never talked about that?

Kammer
A. We talked, we talked about, myself and Broad talked about what, what we had done. That's why I said, when we came back up,

I called, I believe it was Deputy Sloan, I talked to Deputy Sloan and asked him if he needed any paperwork written, you know, for us holding his, his ankles down.

Hamilton
Q. Okay.

Kammer
A. So...

Hamilton
Q. Did you talk to Deputy Romero or Barrett about it?

Kammer
A. About, no, we didn't really talk about the incident. Because Barrett...

Hamilton
Q. Did you...

Kammer
A. ...Barrett had said that when he walked in, other than talking to his, Barrett and him saying that when he walked in, the guy was hobbled. You know.

Hamilton
Q. You guys didn't...

Kammer
A. But he didn't, didn't, you know, like I said...

Hamilton
Q. You didn't discuss that?

Kammer
A. We didn't really discuss what, what happened because none, none of us really saw any hitting or striking or anything going on, so...

Hamilton
Q. Did any other deputy or civilian respond up there while you were there?

Kammer
A. No.

Hamilton
Q. Seniors, sergeants...

Kammer
A. Not that I'm aware of.

Hamilton
Q. ...anybody that was...

Kammer
A. Not that I'm aware of.

Hamilton
Q. Okay. How about any, did you see any trusties? Any inmates?

Kammer
A. I believe, I believe there was an inmate in the lower shower.

Hamilton
Q. Okay. What did he look like?

Kammer
A. I'm not sure. I think he was a male white. Male white maybe.

Hamilton
Q. Okay.

Kammer
A. I, I, I'm, I, I can't remember, like, I know there was somebody in the lower shower.

Hamilton
Q. How did you know that?

Kammer
A. And that was it. Because when we walked in, there were, they had directed the guy to face the back wall.

Hamilton
Q. Who directed him?

Kammer

A. I think it was Deputy Sloan.

Hamilton

Q. Okay.

Kammer

A. He told him to face the back wall to the shower.

Hamilton

Q. Okay.

Kammer

A. And that was, that was the only one I can remember. I don't know if anybody was on the other side or not, but...

Hamilton

Q. Up in the day rooms or anything or up on the row?

Kammer

A. I don't, I don't know.

Hamilton

Q. Did he (inaudible)...

Kammer

A. We couldn't, we couldn't see down the row. I didn't see any trusties around.

Hamilton

Q. How about in the storage room to the left? Inmate...

Kammer

A. I don't know.

Hamilton

Q. ...standing in there?

Kammer

A. I don't think so. I don't remember. I don't remember.

Hamilton

Q. Anything else that you can tell me about this incident?

Kammer

A. No, that's to the best of what I can remember.

Hamilton

Q. Okay. You heard some rumors about this particular case, correct? After the incident happened. You hear rumors, you heard rumors about this...

Kammer

A. I heard what happened to the inmate.

Hamilton

Q. Why don't you talk about...

Kammer

A. Other than that.... I just heard that somehow he had lost one of his testicles, but that was it. That was about it.

Hamilton

Q. Anything else?

Kammer

A. No, no.

Hamilton

Q. Do you ever get a chance to talk to talk to any of those deputies that were involved in the incident? Kluth, [redacted] (inaudible)...

Kammer

A. I haven't, no, I haven't talked to any of them.

Hamilton

Q. No, I'm talking about after, prior to them being relieved...

Kammer

A. No.

Hamilton

Q. ...of duty. You ever talk about that?

Kammer

A. No, because right after the incident, it was my days off and

by the time I came back, I had, I had found out that they were relieved, so...

Hamilton
Q. And, and you didn't talk to any deputies that night that responded down there? Any of your peers that you work with...

Kammer
A. No.

Hamilton
Q. ...about the incident?

Kammer
A. No.

Hamilton
Q. Is that common? For you guys not to discuss something after you were involved...

Kammer
A. I mean, I, I don't really talk about what I do, you know, I mean, unless it's in a force report or if I search somebody, it's not, you know, I'm searching somebody. You know, I don't think it's, it's word of mouth to go around and talk about something you don't, you know.

Hamilton
Q. Okay. Anybody else that you think of that we should talk to?

Kammer
A. No, as, as far as I know that, that was pretty much all the people that were there.

Hamilton
Q. Have you discussed this issue with anybody else? You know, have you talked to Deputy Barrett or Broad or anybody else about this issue? Other than that one night that he told you that the, the guy was hobbled?

Kammer
A. No.

Hamilton
Q. Okay, so you didn't talk to him or that I talked to him?

Kammer
A. No.

Hamilton
Q. You, you knew, you told...

Kammer
A. I knew, I knew that they, that you had talked to him, but I hadn't, none of us sat down and talked to one another, so...

Hamilton
Q. You knew I was here.

Kammer
A. Yeah.

Hamilton
Q. You knew people were...

Kammer
A. Yeah.

Hamilton
Q. ...investigating it.

Kammer
A. Yeah, yeah.

Hamilton
Q. Okay.

Bell
Q. Did you report the use of force to the sergeant?

Kammer
A. No, that's why I said, we talked to Sloan and when we asked him, "Hey, you know, we held down, we held down his ankles. You need any, any paperwork written or anything?" And he said, "No, I'm alright." And I don't know if the, I don't know if Sergeant Fleming was off. I don't know if he was aware or not, but...

Hamilton
Q. Sergeant Mosley...

Kammer
A. Or Mosley.

Hamilton
Q. ...was the floor sergeant, okay.

Hamilton
Q. Did this guy appear to be in any pain whatsoever? When they were trying to handcuff him or anything?

Kammer
A. I don't know if he was in pain. I, I...

Hamilton
Q. I mean, was he yelling (inaudible)...

Kammer
A. I'm sure, I'm sure he was, but he was, he was yelling, but it was more of, you know, that, that fighting yelling, you know.

Hamilton
Q. Such as what?

Kammer
A. As, you know, I don't know how to describe it, though. You know, when somebody gets in a fight, they just start making yelling motions and or yelling sounds and...

Hamilton
Q. Were you...

Kammer
A. ...screaming out loud or whatever.

Hamilton
Q. Have you ever heard of anybody getting hit? Have you ever been hit yourself?

Kammer
A. Have I ever been hit? Yeah, I've been hit.

Hamilton
Q. Then you know how it felt?

Kammer
A. Yeah.

Hamilton
Q. (inaudible) you're when you're in pain?

Kammer
A. Oh, yeah.

Hamilton
Q. You know, you make certain sounds, you know, you may even say, "Aw, shit," you know...

Kammer
A. Yeah.

Hamilton
Q. Did you hear any of that? Did you hear him crying, you know, people in pain. It's kind of a crying sound, or did you hear him...

Kammer
A. Couple times, he might have yelled out, you know, "Ayyy," you know, something like that.

Hamilton
Q. Okay.

Kammer
A. But...

Hamilton
Q. And why was...

Kammer
A. Most of the time, he was just yelling.

Hamilton
Q. Okay.

Kammer
A. And he was just making odd sounds.

Hamilton
Q. Did they put him in a wrist lock?

Kammer
A. I don't know. I don't know.

Hamilton
Q. Okay. They didn't do anything...

Kammer
A. I don't think they did because they were putting the handcuffs on him.

Hamilton
Q. Okay. Okay. Alright. Anything else you can think of? Maybe I forgot to ask. Any, anything significant?

Kammer
A. No, that's the best I can remember.

Hamilton
Q. Did Deputy Broad fill out a injury report?

Kammer
A. For the paper cut?

Hamilton
Q. For his injuries during the altercation.

Kammer
A. Oh, no, no.

Hamilton
Q. So did he ever tell any supervisor that he was injured?

Kammer
A. No.

Hamilton
Q. Okay, so you guys just came back up here and washed it off...

Kammer
A. Yeah.

Hamilton
Q. ...and that was it?

Kammer
A. Because he, he, he had mentioned that he had a paper cut earlier in the night and he, he bleeded, just opened up, because it was in the, it was in the, the same area. So...

Hamilton
Q. Had he been (inaudible)

Kammer
A. ...it wasn't, there wasn't any, any new, new marks there, so that's why he figured his paper cut had just opened from the, the, the pressure from holding down, the blood had just rushed in and started gushing out again.

Hamilton
Q. You guys get any blood on you? The inmate's blood?

Kammer
A. No.

Hamilton
Q. On your clothing?

Kammer
A. No.

Hamilton
Q. Did you notice blood, other than on the floor, did you notice any other blood?

Kammer
A. No.

Hamilton
Q. Okay, and there was none on the walls, there was none on the bars or anything like that?

Kammer
A. Not that I noticed, no.

Hamilton
Q. Okay. That's it. Okay, we're going to end this interview at 0141 in the morning. Thank you.

END OF INTERVIEW

DEP. TODD KAMMER
I.A.B. INTERVIEW 11-15-95

SUBJECT INTERVIEW

CASE NUMBER IAB 008383

TODD KAMMER

Nemeth
Q. Today's date is November 15th, Wednesday, 1995. The time is 1030 hours. I'm Sergeant John Nemeth accompanied by Sergeant Ernie Gjendem. We're present at Sheriff's Internal Affairs Bureau interview room, interviewing subject, Deputy Todd Kammer, re-, regarding IAB Case Number 008383. Deputy Kammer, can you spell your last name and state your employee number for the record, please?

Kammer
A. Yes, it's K-A-M-M-E-R. My employee number's [redacted].

Nemeth
Q. Okay, and Deputy Kammer's present with his representative, Attorney Miss Schwab. Miss Schwab, could you spell your last name for the record, please?

Schwab
A. S-C-H-W-A-B and we're the A.L.A.D.S. attorneys from Green and Shinee.

Nemeth
Q. Okay, thank you. Deputy Kammer, prior to the interview we provided your representative with a tape recording of your previous interview in this case when you were interviewed approximately a year ago by Internal Criminal Investigators. Do you remember that?

Kammer
A. Yes.

Nemeth
Q. Okay, and that interview was tape recorded. We provided a copy of that tape, we provided a copy of the summary of that interview that was prepared by the investigators at that time, and we also provided her with a verbatim transcription of your interview and tape recording. Have you had an opportunity to review those documents?

Schwab
A. Well, I note for the record I just received the transcription yesterday at approximately 3:15 p.m. when I finished with another interview, so that's less than 24 hours before the start of Deputy Kammer's interview so he's not had an opportunity to even look at the--the transcript.

Nemeth
Q. Okay, have you--I--I asked you this similar question before we went on tape. Did you get a chance to--I'm not saying you, you know, you studied the thing word for word but did you get a chance to review it?

Kammer
A. No.

Schwab
A. He--he's--

Nemeth
Q. No? Not at all?

Schwab
A. He--he's generally aware of the prior statements.

Nemeth
Q. Okay. All right, and also let the record reflect that the tape recording that I mentioned of the previous interview and the summary of the previous interview were provided last Thursday which was November 9th. Okay, Deputy Kammer, today we're gonna talk with you about an incident that occurred in Central Jail on October 27th, 1994, were you working that day do you remember?

Kammer
A. Yes.

Nemeth
Q. Okay, do you remember what position you were working that day?

Kammer
A. Yes.

Nemeth
Q. Which was what?

Kammer
A. 9000 roving patrol.

Nemeth
Q. Okay, and are you still assigned to Central Jail at this time?

Kammer
A. Yes, I am.

Nemeth
Q. Okay, and was Central Jail your first assignment upon graduating the academy?

Kammer
A. No, it was not.

Nemeth
Q. Okay, when were you assigned to Central Jail?

Kammer
A. February 2nd, '92.

Nemeth
Q. Okay, and have you been continuously assigned to Central Jail since February 2nd--

Kammer
A. --Yes--

Nemeth
Q. --'92?

Kammer
A. Yes.

Nemeth
Q. All right, and how long have you been on early morning shift?

Kammer
A. April of '92, I believe.

Nemeth
Q. Okay, so you did some--

Kammer
A. --April of '92--

Nemeth
Q. --training time?--

Kammer
A. --I did training time when I got down there, a month or so and then April I did...I believe it was.

Nemeth
Q. Okay, so you've been continuously on early morning shift since April of '92?

Kammer
A. Yes--

Nemeth
Q. --Okay--

Kammer
A. --until as of two months ago.

Nemeth
Q. Okay, two months ago you went to what shift?

Kammer
A. Day shift.

Nemeth
Q. All right. Okay, so you were working 9000 roving patrol on October 27th, correct?

Kammer
A. Correct.

Nemeth
Q. Okay, did something come to your attention or cause you to respond to Module 4400?

Kammer
A. Yes.

Nemeth
Q. Tell us about that.

Kammer
A. The P.A. announcement.

Nemeth
Q. Okay, what--

Kammer
A. --or, public address announcement.

Nemeth
Q. Okay, in your own words, tell me what happened after you heard this public address announcement.

Kammer
A. After I heard the public address announcement, I responded down--we heard it downstairs somewhere, I believe it was 4000 and that's where we responded to.

Nemeth
Q. Okay, you were working 9000--

Kammer
A. --Yes--

Nemeth
Q. --at this time, correct?

Kammer
A. Yes.

Nemeth
Q. And you were on 9000 floor when you heard this announcement?

Kammer
A. Yes.

Nemeth
Q. And 4000 floor is two floors below you, correct?

Kammer
A. Yes.

Nemeth
Q. Okay, so I guess what I'm asking you is, the announcement you heard was on a public address system, correct?

Kammer
A. Right.

Nemeth
Q. But it was not on a public address system for your floor, is that correct?

Kammer
A. No.

Nemeth
Q. It's not correct?

Kammer
A. Okay, that's correct, it wasn't on our floor.

Nemeth
Q. Okay, so did you--were you able to discern what the announcement was or what it said?

Kammer
A. The announcement from the best that we could discern was a 415 deputy-involved.

Nemeth
Q. Okay, did it say where?

Kammer
A. No.

Nemeth
Q. All right, and since you were on the top floor of that side of the jail, did you realize it was on another floor then or?

Kammer
A. Yes.

Nemeth
Q. Okay, so what did you do then upon hearing this?

Kammer
A. We heard it downstairs and we responded down one floor to 5000 and nothing was going on 5000 then we responded down to 4000 and we were directed to 4000 over to the module.

Nemeth
Q. Okay, who's we?

Kammer
A. Deputy Romero, myself and Deputy Broad.

Nemeth
Q. Okay, and the three of you were working the 9000 together, is that correct?

Kammer
A. Yes.

Nemeth
Q. All right, so what happened then when you were directed--you hit 4000 floor and you said the person in the booth directed you to the module. Is that right?

Kammer
A. The person in the booth directed us, yes.

Nemeth
Q. Do you remember who that person was?

Kammer
A. I don't remember off-hand, no.

Nemeth
Q. Deputy Howard, a female deputy? Does that sound familiar or not?

Kammer
A. Could have been, I--I don't know.

Nemeth
Q. Okay. All right, so you--you went into 4400, correct?

Kammer
A. Correct.

Nemeth
Q. And who was first in?

Kammer
A. Deputy Romero was first in.

Nemeth
Q. And who was second in?

Kammer
A. I was second in and then Deputy Broad followed myself.

Nemeth
Q. Okay, and do you remember what time it was--what hour it was when this first happened? No?

Kammer
A. No, I don't.

Nemeth
Q. Can you approximate based on events that occur in the jail, whether it be your duties or when you go to eat or anything like that?

Kammer
A. No, I couldn't.

Nemeth
Q. Okay. All right, so you're second in, Romero's first in--in and was it--Brode is--?--

Kammer
A. --Broad--

Nemeth
Q. --Broad--

Kammer
A. --Broad--

Nemeth
Q. --was the third person in.

Kammer
A. Correct.

Nemeth
Q. Okay, and when you get in, what do you see?

Kammer
A. We first get in there, I see Deputy r-, Sloan in the doorway for the control booth and Romero was taking his place. He came out, we noticed an inmate was squirming on the ground and we noticed that the four deputies at this time wrestled with him and they were laying on top of him--

Nemeth
Q. --Okay--

Kammer
A. --That's when--

Nemeth
Q. --hang on a second. What caused Romero to--to take Sloan's position in the Module 4400 control booth?

Kammer
A. I believe Sloan had asked him to take his place--

Nemeth
Q. --Okay--

Kammer
A. --and to hold the door.

Nemeth
Q. Okay, and do you remember what words he used when--when he made that request?

Kammer
A. I don't--the exact words, no, I don't remember the exact words he used. He just, could you hold the door, but as far as the exact words, I don't know.

Nemeth
Q. Okay, all right, so Romero, the first person in, goes and relieves Sloan who's in the booth, is that correct?

Kammer
A. Right.

Nemeth
Q. Okay, so how many deputies are wrestling with the inmate at this point?

Kammer
A. There were three, I believe three.

Nemeth
Q. Okay. And do you know who those three were?

Kammer
A. Yes.

Nemeth
Q. Who's that?

Kammer
A. Deputies [redacted] Deputy [redacted] Deputy Kluth and then Sloan--Deputy Sloan.

Nemeth
Q. And then Deputy Sloan. Did you enter then once--

Kammer
A. I went in afterwards, yes.

Nemeth
Q. Once Romero relieved him at his request.

Kammer
A. Yes.

Nemeth
Q. All right. For the tape, Kluth is K-L-U-T-H and [redacted] is [redacted], [redacted], and Sloan is S-L-O-A-N. Okay, all right, so that happens and as you're looking at the inmate, what's his condition? I mean, is--what's his body position?

Kammer
A. He was lying face down.

Nemeth
Q. Okay. Was he secured in any way at this point?

Kammer
A. Deputies were laying on top of him.

Nemeth
Q. Okay, was he handcuffed?

Kammer
A. No.

Nemeth
Q. Was he hobbled--his feet tied together?

Kammer
A. No.

Nemeth

Q. Okay, so he was essentially unrestrained except for the fact that deputies were on top of him.

Kammer
A. Yes.

Nemeth
Q. All right? And initially three deputies were on top of him?

Kammer
A. Initially, yes.

Nemeth
Q. When you first got there.

Kammer
A. When we first got there.

Nemeth
Q. Okay, and who did you see on the inmate and where--where did you see him?

Kammer
A. I think Deputy [redacted] was on the upper left torso area. Let's see, Deputy [redacted] was towards his--his middle torso area and--

Nemeth
Q. --The inmate's middle torso area?

Kammer
A. Yes (inaudible)--

Nemeth
Q. --On which side?

Kammer
A. His left side.

Nemeth
Q. Okay.

Kammer
A. And then Deputy Kluth was on the upper torso area on his right side and then Deputy Sloan had taken position on his lower right torso area.

Nemeth
Q. Okay. All right, so Sloan gets relieved and goes and takes his position on the lower torso. What do you do then at that point?

Kammer
A. We notice that--while they were wrestling with him, we noticed that--that his legs were free and they were moving around--kicking around and Deputy Broad and I went over and grabbed an ankle each, between the ankle and the calf area and held his leg down. We kind of spread them out a little bit so they could, it--it could balance him out and we held his--we held his leg down.

Nemeth
Q. To balance him out?

Kammer
A. Yeah, 'cause he was moving--he was moving quite a bit even with four deputies on top of him, he was moving quite a bit, so--

Nemeth
Q. What--what is balance him out? I'm trying to...was he--I guess what I'm trying to figure out is why would you separate his legs?

Kammer
A. His upper--his upper body was moving in such a way that by taking his legs and moving them out it kinda balanced out his whole body weight so it was easier for them to control his upper torso.

Nemeth
Q. Okay, you figured that by having his legs separated it would reduce the power that he would be able to--

Kammer
A. --Yes--

Nemeth
Q. --to get from him, is that right? Okay. All right, which leg were you holding?

Kammer
A. I was holding the--it would have been his--his left leg if you were looking at him face down.

Nemeth
Q. Okay, well, he's face down--

Kammer
A. The inmate's left leg.

Nemeth
Q. So his left--the inmate's--

Kammer
A. --Yes--

Nemeth
Q. --left leg?

Kammer
A. Yes.

Nemeth
Q. And you were holding it where now?

Kammer
A. Between the ankle and the calf.

Nemeth
Q. Okay, and you were holding it flat on the ground?

Kammer
A. It wasn't, you know, it wasn't flat because of his toes getting in the way.

Nemeth
Q. Okay, so you--

Kammer
A. --It was enough to just hold it down.

Nemeth
Q. Okay, and did you have both hands on it?

Kammer
A. No, I had one hand.

Nemeth
Q. What was your other hand doing?

Kammer
A. My other hand was just free. I had one hand.

Nemeth
Q. Remember what kind of footwear, if any, the inmate had on?

Kammer
A. Don't remember.

Nemeth
Q. Don't remember one way or the other?

Kammer
A. No.

Nemeth
Q. Okay. Okay, and--and who was holding the other leg?

Kammer
A. Deputy Broad.

Nemeth
Q. And that would be the right leg then obviously, right?

Kammer
A. Yes.

Nemeth
Q. And do you know how he was holding it?

Kammer
A. I don't know exactly how he was holding it.

Nemeth
Q. Was he holding it off of the ground or was he holding it in a fashion similar to what you were doing?

Kammer
A. I don't know.

Nemeth
Q. Well, let me ask you this. Was Deputy Broad--what was your body position--

Kammer
A. --My body--

Nemeth
Q. --while you were holding the leg?

Kammer
A. My body position was I had one hand on his--between his ankle and his calf and my direction was faced towards the booth door.

Nemeth
Q. Okay.

Kammer
A. And my back was somewhat toward back--or, turned away from the incident. So I was facing--if you were looking at it, I was facing this way (inaudible)

Nemeth
Q. So your back was to the inmate's head then, is that right?

Kammer
A. Yes.

Nemeth
Q. Okay, and you--were you kneeling down or standing up, bent over at the waist--?--

Kammer
A. --I was kneeling down.

Nemeth
Q. Kneeling down on the ground and was Deputy Broad kneeling or standing or bent over or--?

Kammer
A. I don't remember.

Nemeth
Q. You don't know. So, in other words, it's possible that he was standing and you wouldn't know, is that right?

Kammer
A. I don't know.

Nemeth
Q. Okay. All right, so you were in that position and then how long did you hold his legs like that?

Kammer
A. A few seconds, it was a matter of seconds.

Nemeth
Q. Less than five?

Kammer
A. Yeah, maybe, about five seconds, somewhere in there.

Nemeth
Q. Okay, so what happened next?

Kammer
A. After--so I was holding down his leg and I glanced back and they had placed a--gotten one arm free and handcuffed--they put handcuffs on his--I believe it was his left arm and--

Nemeth
Q. --The inmate's left arm.

Kammer
A. Yes, the inmate's left arm and I believe it was--it was Sloan or--I believe it was Sloan that was trying to dig out his right arm and they were yelling at him and the next--next thing I hear is okay he's hooked and then Deputy Sloan and I believe it was [redacted] that slid down to take Broad--Broad and myself's position.

Nemeth
Q. Okay, let--let me back up for a minute. You said that they broke his left arm free or they broke his arm free and handcuffed his left arm. Where--where was his left arm that they had to break it free?

Schwab
A. Well, you're using the term break and--

Nemeth
Q. --I think that was his word.

Schwab
A. I--I heard him say that had his left arm free--

Nemeth
Q. --He said break it free--

Schwab
A. --Is that to say that they broke his arm?--

Nemeth
Q. --No, that's not at all what--that's not what we're talking about--you--you used the term break it free--in other words, was the inmate holding onto something or holding his arm away or something--

Kammer
A. --He had it tucked underneath him.

Nemeth
Q. Underneath his upper body towards him?

Kammer
A. When I looked back they had just gotten it out.

Nemeth
Q. Okay, and you use the term break it free as a term of speech, right to--?--

Kammer
A. --Yes, right--

Nemeth
Q. --to loosen it up from where he was holding it?

Kammer
A. Yes.

Nemeth
Q. Okay, so he was resisting putting his arms around his back? The inmate?

Kammer
A. On the--on the left hand--on the left arm?

Nemeth
Q. Yes.

Kammer
A. On the left arm, I--I guess you can't really say--well, I don't know if he was resisting--I know he was resisting more on his right arm.

Nemeth
Q. Okay, where was--

Kammer
A. --When I looked back, on his left arm, they had just pulled it out and were--were handcuffing it, so--

Nemeth
Q. --Okay--

Kammer
A. --as far as resisting, I don't know, you know.

Nemeth
Q. Okay, now how about his right arm, what was his right arm doing?

Kammer
A. (Inaudible) when I looked back, he had his right arm tucked underneath him and Deputy Sloan was trying to dig it out from underneath him or pull it out from underneath his body.

Nemeth
Q. All right, so left and right arms were underneath his upper torso, is that right?

Kammer
A. Yes.

Nemeth
Q. And he was laying on them, is that right?

Kammer
A. Yes.

Nemeth
Q. So at that point, he gets handcuffed, is that right?

Kammer
A. They had one handcuff on, the left arm.

Nemeth
Q. Okay.

Kammer
A. And once they pulled out the right arm, yes, they handcuffed the other one.

Nemeth
Q. Okay. And was that the inmate--was that the position of the inmate's arms from the moment you got in there, to the module?

Kammer
A. Underneath him?

Nemeth
Q. Right.

Kammer
A. Yes.

Nemeth
Q. Okay. And--and you said you saw the four deputies--you described their position--four deputies being Sloan, Kluth, [redacted] and [redacted] and you and Broad noticed the inmate's legs were free, is that what you said?

Kammer
A. Yes.

Nemeth
Q. Okay, what was he doing with his legs?

Kammer
A. They were, like I had mentioned they were kicking around, moving around.

Nemeth
Q. Kicking around?

Kammer
A. Yeah, he was squirming his lower body around.

Nemeth
Q. Okay. Did it appear to you, as attempting to break free from the other deputies?

Kammer
A. Yes.

Nemeth
Q. Okay. And you said when they were handcuffing him--pulling his arms, then they put the handcuff on his left hand, did you--you said you heard them talking to the inmate or yelling at the inmate, I think you said.

Kammer
A. Yes.

Nemeth
Q. Okay, who was yelling?

Kammer
A. I don't know.

Nemeth
Q. Deputies?

Kammer
A. I believe so, they were yelling commands to him.

Nemeth
Q. Okay, and what--what kind of commands were they yelling to him?

Kammer
A. I believe they were yelling put your hands behind your back, stop resisting, that--that was about it.

Nemeth
Q. Okay, is that all you heard or did you hear other things?--

Kammer
A. --(Inaudible) as much as I can recall.

Nemeth
Q. Okay, did you hear anybody say they were gonna break the inmate's fingers?

Kammer
A. No.

Nemeth
Q. Did you ever see the inmate holding his arms--or one of his arms out with his hands holding onto the bars on the shower on Baker Row?

Kammer
A.   No.

Nemeth
Q.   Okay. How long had the scuffle been going on when you arrived in the module?

Kammer
A.   I have no idea.

Nemeth
Q.   So it could of been going on for 5 or 10 or even 20 minutes before you got there--

Kammer
A.   --Yeah--

Nemeth
Q.   --correct?

Kammer
A.   I don't think 20 minutes, that's, you know, exaggerating a few minutes.

Nemeth
Q.   Minutes?

Kammer
A.   Yeah, before we responded down there.

Nemeth
Q.   Okay. All right, do you--did you have a radio on that night?

Kammer
A.   I don't remember.

Nemeth
Q.   Okay, you sometimes do and sometimes don't?

Kammer
A.   (Inaudible) depends how many radios are on the floor.

Nemeth
Q.   Okay, but if you did have a radio, you don't remember hearing a ra-, a call go out on the radio for this incident?

Kammer
A.   I wouldn't--I wouldn't know. If it went out on the radio, we're not because I don't remember having one, so--

Nemeth
Q. Right. Okay. All right, so you got down there and you don't know exactly how long this incident had been going on. Is that correct?

Kammer
A. Correct.

Nemeth
Q. But you know that there were three other deputies there plus the person in the booth at the time you arrived, correct? You gotta say yes or no.

Kammer
A. Yes. Yes.

Nemeth
Q. Okay. Okay, so now he's--he gets handcuffed and who's applying the handcuffs?

Kammer
A. I have no idea.

Nemeth
Q. Okay, well you described there were two, two deputies up towards his arms and--

Schwab
A. And so what's your question?

Nemeth
Q. Who was applying the handcuffs?

Kammer
A. I don't remember.

Nemeth
Q. Okay.

Kammer
A. I know the two deputies that were closer to the area but as far as who handcuffed him, I--I don't know.

Nemeth
Q. Okay.

Kammer
A. When I looked back, his left hand was handcuffed and I don't know who put it on.

Nemeth
Q. Okay.

Kammer
A. And they were attempting to handcuff the other one.

Nemeth
Q. All right, and who pulled the right arm out?

Kammer
A. I believe it was Deputy Sloan.

Nemeth
Q. Sloan. Did you see Sloan attach the right handcuff then or no.

Kammer
A. No, I didn't.

Nemeth
Q. Didn't? Okay. But then he got handcuffed at that point--

Kammer
A. --Yeah--

Nemeth
Q. --after Sloan pulled that arm out. Okay. All right, and when you were holding the inmate's legs, did you feel resistance?

Kammer
A. No.

Nemeth
Q. Okay, you didn't feel him trying to pull his leg loose or kick or anything?

Kammer
A. No.

Nemeth
Q. What was the inmate saying as the deputies were ordering him commands to give up, put his hands behind his back, things like that.

Kammer
A. The inmate was just, the whole time that we were down there, he was just yelling and screaming. He wasn't saying--I mean, if he was saying anything, I couldn't make anything out specifically. He was just yelling and screaming.

Nemeth
Q. Just sounds of--

Kammer
A. --Yeah--

Nemeth
Q. --coming out of his mo--

Kammer
A. --Yes, sir.

Nemeth
Q. All right. Okay, did you ever hear the inmate say anything like don't kill me or anything like that?

Kammer
A. No, I didn't.

Nemeth
Q. Okay. Okay, so now the handcuffs are applied and what happens next?

Kammer
A. After the handcuffs were applied, I remember I got up and I believe it was [redacted] or Sloan, whoever was on the left side there, had slidden down and taken my position 'cause I had gotten up and Broad--Broad had gotten up and he had looked down his hand noticed that he had a cut on his finger. And I looked at it also and I made a comment to him, you know, he--he made the comment oh my hand's cut and I said you should go take--get--get that taken care of and that's when we left and went back upstairs.

Nemeth
Q. Okay, was the inmate struggling at that point when you left?

Kammer
A. Don't know.

Nemeth
Q. You don't know?

Kammer
A. Uh-uh.

Nemeth
Q. Okay, but what you do know is he wasn't pulling against your grasp of his leg, correct?

Kammer
A. Right.

Nemeth
Q. And you know that his hands were handcuffed at that point, correct?

Kammer
A. Right.

Nemeth
Q. Okay, all right. When you--how did you transfer possession of the inmate's left leg?

Kammer
A. I had--I just got up and I believe [redacted] had slidden down 'cause he was on the lower torso area--

Nemeth
Q. --Okay--

Kammer
A. --of the body.

Nemeth
Q. All right, was there some point in time then when you got up--between when you got up and when [redacted] slid down to take your position on the left leg that the inmate's leg was not being held down by anybody?

Kammer
A. No, I don't believe so.

Nemeth
Q. So it was kind of a timed move? You let go and [redacted] slid in or what?

Kammer
A. Could've been.

Nemeth
Q. Did [redacted] take his--

Kammer
A. --I don't remember--all I remember is seeing him sliding down and I had gotten up, so--

Nemeth
Q. Did you get up before he slid down or after he came over?

Kammer
A. I got up before.

Nemeth
Q. Okay, so you got up and then he came down, correct?

Kammer
A. He was--okay, he was sliding down as I was getting up, that's how I know he was sliding down.

Nemeth
Q. Okay, so he kinda took possession of securing that leg from you?

Kammer
A. Yes.

Nemeth
Q. Before you released it?

Kammer
A. Before I released it?

Nemeth
Q. Right.

Kammer
A. Yeah, I guess you could say that, yes.

Nemeth
Q. Okay, so in other words, there was no point in time when that leg--that inmate's left leg was--was unsecured as far as this point in time that we're talking about?

Kammer
A. The point that--

Nemeth
Q. --That you had it--

Kammer
A. --slid out?

Nemeth
Q. Right.

Kammer
A. From the point after I got a hold of it and I, he had slidden down so he was already up on the--the lower torso area, so I--you'd have to imagine that when he's sliding down, he was gonna have control of the leg, at least the upper thigh area--

Nemeth
Q. --Okay--

Kammer
A. --when I was getting up.

Nemeth
Q. All right. Did the inmate try to kick or anything when you guys changed possession of who's holding the leg?

Kammer
A. Not that I'm aware of.

Nemeth
Q. Okay. All right, now going back to the struggling part when you first arrived, did you see any deputies punch the inmate?

Kammer
A. No, I did not.

Nemeth
Q. Not at all?

Kammer
A. Not at all.

Nemeth
Q. Okay, did you see any deputies attempt to apply any type of control hold or restrain-, restraining hold to the inmate?

Kammer
A. As far as--?

Nemeth
Q. A wrist lock or a (inaudible)--

Kammer
A. --(Inaudible) saw were them laying on top of him, you know, using bo-, using body weight.

Nemeth
Q. Okay, so the three deputies when you first arrived, Kluth, [redacted] and [redacted] had their bodies laid across the inmate's?

Kammer
A. No, I wouldn't say laid, they were positioned in a way where they were holding his body weight down.

Nemeth
Q. Okay. How was--describe [redacted] body position, how he was holding the inmate down.

Kammer
A. [redacted] I believe, was towards the--his left--upper left torso. He was holding the--the shoulder--shoulder area and upper back area down with his body weight and his--it was almost like a--a wrestling move, I guess, except he wasn't (inaudible) you know, a wrestling move where you, you know, kinda take your--your one arm and put it underneath to hold him down.

Nemeth
Q. Like he was holding his head--?--

Kammer
A. --I really don't, he didn't have his--he didn't have his arm around his head.

Nemeth
Q. Okay.

Kammer
A. It was more around his shoulder area, down around here where he was trying to hold him down and plus, you know, kinda like digging out his arm at the same time.

Nemeth
Q. Okay, was--

Kammer
A. --That's the best I can remember [redacted]

Nemeth
Q. Okay, was [redacted] kneeling, standing, bent over at the waist, sitting on the floor, how--how was he--how was his body positioned?

Kammer
A. He was laying.

Nemeth
Q. He was laying down?

Kammer
A. Yeah.

Nemeth
Q. Kind of in a prone position?

Kammer
A. Yeah.

Nemeth
Q. Okay, and he's at the--the inmate's upper left side, correct?

Kammer
A.   Yes.

Nemeth
Q.   And now, I'm trying to describe for the tape the mo-, motions you're making with your--with your injured right arm--you--you made it in kinda like a "V" shape, bent at the elbow, and you described the wrestling move so I--I--what I'm envisioning and--and I'm just trying to just get this correct, okay? Did [redacted] have his arm tucked under the inmate's arm in some kind of wrestling hold like this?

Kammer
A.   No.

Nemeth
Q.   Interweaving his arm?

Kammer
A.   No, it was over the top.

Nemeth
Q.   Over the top? Like this?

Kammer
A.   He had the other arm over.

Nemeth
Q.   This arm?

Kammer
A.   Yeah.

Nemeth
Q.   Like--like this, he's leaning on him?

Kammer
A.   Leaning over like that and they were getting the other arm out.

Nemeth
Q.   And trying to pull this out.

Kammer
A.   Yeah.

Nemeth
Q.   Okay. All right, so--that's him and you don't see him do any kind of punching or control holding or anything--

Kammer
A.	--No, I did not--

Nemeth
Q.	--anything--

Kammer
A.	--No.

Nemeth
Q.	Okay, and who was on the--the lower left side?

Kammer
A.	The lower left side, I believe was Deputy [redacted]

Nemeth
Q.	[redacted]

Kammer
A.	Yes.

Nemeth
Q.	He's the guy who ultimately relieves you on the left leg, correct?

Kammer
A.	Yes.

Nemeth
Q.	Okay, and what's [redacted] body position?

Kammer
A.	He's also to the--I believe he's to the left of the inmate a little bit but he's also laying--he's laying in a position where he's getting the--or trying to get the right--or, the left arm.

Nemeth
Q.	Okay.

Kammer
A.	So--

Nemeth
Q.	Was [redacted] trying to get the left arm, too?

Kammer
A.	Yes.

Nemeth
Q.	So both of them were left arm.

Kammer
A. (Inaudible)

Nemeth
Q. Okay, and [redacted] was laying prone, he's not standing and he's not on his knees, is that correct?

Kammer
A. Not that I remember.

Nemeth
Q. Okay, and where is he--other than going for the arm, is he--is he concentrating all his effort on pulling the arm out--the inmate's left arm out?

Schwab
A. What was your question again?

Nemeth
Q. Was [redacted]

Schwab
A. --Trying to--

Nemeth
Q. --concentrating all of his efforts on trying to hold or free the inmate's left arm from under the inmate's body?

Schwab
A. As--as it appeared to you.

Kammer
A. As it appeared to me, yes.

Nemeth
Q. Okay, and now who's on the upper right?

Kammer
A. I believe it was Deputy Kluth.

Nemeth
Q. Okay, and what's he doing?

Kammer
A. I--as of right now, I can't--I can't remember what he was doing. I can't recall what he was doing.

Nemeth
Q. Okay, do you recall his body position?

Kammer
A. I know that he was laying on top, but as far as motion wise I don't know what he was doing.

Nemeth
Q. Okay. He was laying though, you were saying?

Kammer
A. Yes.

Nemeth
Q. Correct?

Kammer
A. Yes.

Nemeth
Q. Not on his knees?

Kammer
A. Not--not that I can remember.

Nemeth
Q. All right, you remember him being more of a horizontal laying down type position?

Kammer
A. Yes.

Nemeth
Q. Okay. You don't know what he was doing but he was at the upper left-hand--

Kammer
A. --Upper right-hand corner.

Nemeth
Q. I mean upper right-hand corner of the inmate. Okay. Did you see--did you see him punch--strike the inmate?

Kammer
A. No, I did not.

Nemeth
Q. Attempt to apply any control holds?

Kammer
A. No.

Nemeth
Q. Okay, and how about Sloan? Sloan, I think you said, takes the--

Kammer
A. --He went over to the right side.

Nemeth
Q. Okay. What's Sloan's body position?

Kammer
A. I--I don't--I don't remember.

Nemeth
Q. Okay, when you say you don't remember, does that mean he could be standing or kneeling or laying down and you don't remember which it is?

Kammer
A. Yeah, I don't--as of this time, I don't exactly remember what his position was, I can't recall.

Nemeth
Q. Okay, but you did know that he was--

Kammer
A. --I know--

Nemeth
Q. --working on the right arm, correct?

Kammer
A. Yes, yes.

Nemeth
Q. Did you see Sloan punch the inmate?

Kammer
A. No, I did not.

Nemeth
Q. Is it possible Sloan punched him and you didn't see it? For the time you were there?

Kammer
A. For the time that I was there?

Nemeth
Q. Yes.

Kammer
A. It's--it's possible, yes, 'cause like I had mentioned, my back was--was turned-, my attention was turned away and then I would glance back, so I gu-, I guess it's possible.

Nemeth
Q. Okay, and is that also true then for--for [redacted] and [redacted] for the same reason?

Kammer
A. Once again, I guess it's possible, I wouldn't know.

Schwab
A. Did you hear any sounds that would indicate somebody was being punched or hit?

Kammer
A. I didn't--I didn't personally hear any sounds that would indicate that, like I said, it was--it was loud in there. The inmate was doing a lot of screaming plus the deputies were yelling commands, so--

Nemeth
Q. So, in other words, it's possible that they punched him because of--or--or applied a control hold or used some type of force on him that you weren't aware of because of the noise going on and because of the fact that your back was towards the inmate's head, you--you couldn't--you didn't have a constant visual on their actions, is that correct?

Kammer
A. No. Correct.

Nemeth
Q. Okay. All right, how about Deputy Broad, did you see Deputy Broad punch or strike the inmate in any way?

Kammer
A. No, I didn't.

Nemeth
Q. Did he try to apply any control holds of any sort?

Kammer
A. Other than on the leg--

Nemeth
Q. --Yeah, other than--

Kammer
A. --as far as control holds?

Nemeth
Q. Yeah.

Kammer
A. Not that I'm aware of, I--

Nemeth
Q. --Okay, all right. And yourself, did you punch or--or attempt to use a control hold other than you--you're holding of his left leg?

Kammer
A. No.

Nemeth
Q. That night when you responded to this call, did you--

(Side A of Tape 1 ends at this point.)

Nemeth
Q. All right, Side 2 of Tape 1 continuing with Deputy Kammer's interview. The question I started to ask on the other side of the tape was what type of flashlight do you normally carry on duty, if you carry a flashlight on duty.

Kammer
A. Normally, I carry a--a Stream light.

Nemeth
Q. Okay, and--and do you know the model number of it, SL20, SL35--?--

Kammer
A. --I believe it's an SL20.

Nemeth
Q. SL20? Okay, in other words, it's a full-sized flashlight, correct, as opposed to the little mini or micro--

Kammer
A. --Yes--

Nemeth
Q. --flashlights?

Kammer
A. Yes.

Nemeth
Q. Okay, you don't remember if you had it with you on this incident?

Kammer
A. No, I don't.

Nemeth
Q. Okay, if you didn't have it in your hands, where would your flashlight be?

Kammer
A. In my holder.

Nemeth
Q. Okay, and you carry a holder on your belt?

Kammer
A. Yes.

Nemeth
Q. Okay. And did you at any time remove your flashlight, if you'd had it and--and lose control of it or anything at the incident?

Kammer
A. No.

Nemeth
Q. Okay, and you don't remember if (inaudible)--

Kammer
A. --I don't remember having it so I mean, I couldn't remember pulling it out if I can't remember if I didn't have it.

Nemeth
Q. Okay, all right, so you don't remember anything to do with your flashlight like it might have come out or anything?

Kammer
A. No.

Nemeth
Q. Okay. All right, how about OC spray? Do you carry OC spray?

Kammer
A. We didn't carry it--we didn't carry it at that time.

Nemeth
Q. Okay, nobody did?

Kammer
A. Nobody did.

Nemeth
Q. Okay, so as far as--pardon?

Kammer
A. As far as the OC spray, I don't believe we got it until '93.

Nemeth
Q. Okay, and this incident happened October 1994.

Kammer
A. That's right, I didn't get mine until December. I started carrying it in December.

Nemeth
Q. You remembered it--it--

Kammer
A. --Yeah--

Nemeth
Q. --after the incident.

Kammer
A. Yeah.

Nemeth
Q. Okay, had--and you hadn't been to the training, that's--that's what your memory's connect from?

Kammer
A. --Yeah.--

Nemeth
Q. --Okay.

Kammer
A. Yeah, yeah.

Nemeth
Q. Okay, so you might have had a flashlight but you don't remember it playing any role in this event, correct?

Kammer
A. Correct.

Nemeth
Q. And you definitely did not have OC spray, correct?

Kammer
A. Correct.

Nemeth
Q. Okay, how about as to--let's go through the other deputies, let's start wit[redacted] Did he have a flashlight?

Kammer
A. I don't know.

Nemeth
Q. Okay, did he have OC spray?

Kammer
A. Don't know.

Nemeth
Q. Do you know--did any of the involved deputies--I'm gonna just lump it all together, Kluth, Sloan, Broad, [redacted] yourself, Romero, or Barrett who was at some point later, did--did any of them possess OC spray to your knowledge?

Kammer
A. I--I don't know, I don't know.

Nemeth
Q. Did anybody use OC spray? Obviously not, correct?

Kammer
A. Obviously not, no.

Nemeth
Q. Okay, all right, did you see anybody use a flashlight to strike the inmate?

Kammer
A. No, I did not.

Nemeth
Q. Did you see any of the involved deputies use any object to strike the inmate?

Kammer
A. No, I did not.

Nemeth
Q. Did you see, in your involvement in the incident, any deputy kick the inmate anywhere?

Kammer
A. No, I did not.

Nemeth
Q. No kicking at all?

Kammer
A.   No.

Nemeth
Q.   Okay.

Kammer
A.   Not that I'm aware of.

Nemeth
Q.   Okay. So, in other words, like we said before, you got to the incident after it had already begun, correct?

Kammer
A.   Correct.

Nemeth
Q.   And you said that--we're gonna get to this in a minute, but you said that you left when your partner, Deputy Broad, noticed he had a cut on a finger?

Kammer
A.   Yes.

Nemeth
Q.   What was the situation then? How would you--would you say it was over at that point or still--still ongoing to some extent?

Kammer
A.   At that point, I believed it to be over, once he was handcuffed.

Nemeth
Q.   Okay, now you traded possession of the inmate's left leg--or, duties of securing the left leg with [redacted] correct?

Kammer
A.   Yes.

Nemeth
Q.   Okay, wa-, was the inmate's legs hobbled while you were there?

Kammer
A.   Not while I was in there.

Nemeth
Q.   Okay, but yet you felt it necessary to restrain his leg after he was handcuffed, correct?

Kammer
A.   That was only for a few seconds.

Nemeth
Q. Okay, but then [redacted] took over, correct?

Kammer
A. Yes, yes.

Nemeth
Q. Okay. And who--somebody relieved Broad also?

Kammer
A. I believe so.

Nemeth
Q. And who--

Kammer
A. --Because he had gotten up, too--

Nemeth
Q. --was that?

Kammer
A. Offhand I would have to say it would--it would be Deputy Sloan 'cause he was the closest one to the area.

Schwab
A. But you're guessing--

Kammer
A. --(Inaudible) I'm guessing at that.

Nemeth
Q. We don't want you to guess.

Kammer
A. Okay.

Nemeth
Q. What--what's your memory, if you know, who took over that leg--the right leg of the inmate?

Kammer
A. I believe it was Deputy Sloan.

Nemeth
Q. Okay, and you're saying you believe that it was Sloan, did you see Deputy Sloan--

Kammer
A. --No, I--

Nemeth
Q. --when you got up?--

Kammer
A. --No, I didn't.

Nemeth
Q. Did Broad later tell you it was Deputy Sloan that--

Kammer
A. --No, he didn't--

Nemeth
Q. --relieved him?

Kammer
A. No.

Nemeth
Q. So what makes you figure it's Sloan, by his proximity to where they were?

Kammer
A. By his proximity, yes.

Nemeth
Q. Okay. All right, so somebody relieved Broad of securing the inmate's right leg then, right?

Kammer
A. Yes.

Nemeth
Q. If people are still securing an inmate, the inmate's on the floor and there's deputies actively involved in holding an inmate's legs down, you think that qualifies as the incident being concluded?

Kammer
A. As far as it being over?

Nemeth
Q. Right.

Kammer
A. I thought it was over once he was handcuffed, that's why I let go of the leg.

Nemeth
Q. Okay.

Kammer
A. [redacted] had taken my--my place.

Nemeth
Q. Right, but then another deputy came in to relieve you, so what would the necessity for relieving somebody securing a leg be if the incident was over?

Kammer
A. I don't know, I couldn't answer for what he did.

Nemeth
Q. Okay, but you felt it was over and that's why you got up, is that correct?

Kammer
A. Yes.

Nemeth
Q. Okay. All right. And when your partner, Deputy Broad, showed you his cut on his finger, what happened after that?

Kammer
A. After he showed us--or showed me the cut, I told him maybe we should go take care of that, you know, let's go wash it out. That's when we left and went back upstairs to 9000, went into the--the washroom to wash his finger out. And I washed my hands.

Nemeth
Q. Okay. So neither of you were wearing gloves at the time--

Kammer
A. --No--

Nemeth
Q. --of this event? Did you see any blood there when you were working--

Kammer
A. --I saw blood on the floor--

Nemeth
Q. --On the floor--

Kammer
A. --when we first got in there.

Nemeth
Q. When you first got in.

Kammer
A. Yes.

Nemeth
Q. Okay. Do you know where that blood came from?

Kammer
A. I remember looking down at him and seeing that he was bleeding from the--the head and facial area. As far as where the blood was coming out from, I couldn't tell you.

Nemeth
Q. The inmate was?

Kammer
A. Yes.

Nemeth
Q. Describe for me the blood you saw--fresh blood as opposed to old dried up blood?

Kammer
A. Yeah, it was--it was fresh, I mean--

Nemeth
Q. Wet? Right?

Kammer
A. Yeah.

Nemeth
Q. Okay, and where was the blood at that you saw?

Kammer
A. I saw it on the floor. Spe-Specifically, I can't--I can't recall where it was at.

Nemeth
Q. Okay.

Kammer
A. Specifically.

Nemeth
Q. Where is this struggle occurring in the module in perspective to how that module sally port area is laid out.

Kammer
A. Ahhh, when you enter it would be on the floor near the Baker Denver cell gates and there was a little laundry room, a little intake.

Nemeth
Q. Like a mop closet-type room?

Kammer
A. Yeah.

Nemeth
Q. Is that what you're describing?

Kammer
A. Yeah.

Nemeth
Q. That's right in there--

Kammer
A. Yes.

Nemeth
Q. In that little section?

Kammer
A. Yes.

Nemeth
Q. Okay. So you say the blood's on the floor of that section?

Kammer
A. I--I couldn't remember. I can't recall.

Nemeth
Q. How much blood was there?

Kammer
A. Once again, I can't recall how much.

Nemeth
Q. Okay, well was it a couple of drops?

Kammer
A. I mean I saw, I saw blood but as far as how much I can't--I mean there was enough to see, but I can't recall the amount or how much--

Nemeth
Q. Okay. I'm not going to ask you how many pints or quarts it was--

Kammer
A. Yeah, yeah.

Nemeth
Q. --But what I'm gonna ask you, is this--

Schwab
A. It was neither a pint nor a quart.

Kammer
A. --was it a--I don't know.

Nemeth
Q. Were you there Miss Schwab?

Schwab
A. Otherwise, he'd be describing a different (inaudible).

Nemeth
Q. Let me ask you this. Was it a few drops as opposed to, you know, some larger areas being covered with blood?

Kammer
A. Once again, I could--I couldn't tell you. Off --

Nemeth
Q. Do you know if--

Kammer
A. -- off-hand, I can't recall. It was -- it was enough that I noticed blood being there.

Nemeth
Q. Uh-huh.

Kammer
A. But as far as the amount and how much it was covering and what--all that, I--I couldn't tell you or recall.

Nemeth
Q. Okay.

Kammer
A. Right now.

Nemeth
Q. Now the blood you saw, was it near the inmate's head? Where his head was?

Kammer
A. I saw some blood near his head when I looked back.

Nemeth
Q. Uh-huh.

Kammer
A. As far as it coming out, I don't--you know, I don't know how much it was bleeding or what.

Nemeth
Q. Uh-huh.

Kammer
A. Okay. And the--the inmate's head was pointing in which direction in this little area you described?

Nemeth
Q. His head was directed towards--it would be the Denver row gates.

Kammer
A. Okay.

Nemeth
Q. So that would be the--the north--north wall, I guess, of the module.

Kammer
A. Okay. Was he laying in a straight line, perpendicular to the gates or--

Nemeth
Q. Yes.

Kammer
A. --parallel to the gates?

Nemeth
Q. Par--parallel to the gates.

Kammer
A. Parallel to the gates, so--

Nemeth
Q. Yes, the gates are like this and he was laying this way because the laundry room's here. And there's gates that run perpendicular to the Baker row--Baker and Denver row gates that begin in the shower area.

Kammer
A. Let me--let me have you do this. Using that pencil and draw me a little quick sketch of the module.

Schwab

A. You know what, he's got a broke--he's got an arm in a cast.

Nemeth
Q. Okay, I'll draw it for you.

Schwab
A. That's not a (inaudible)--

Kammer
A. (Inaudible)

Nemeth
Q. Describe the area and how it--oh, we don't want to be unfair. Let's--you direct me and I'll draw for you, since you're (inaudible)--

Kammer
A. Where--where do you want me to start?

Nemeth
Q. Well let's start with--let me--let me--

Kammer
A. Start at the (inaudible) area?

Nemeth
Q. Let me start a little bit for you here, okay. Let's make this the one gate door. Actually it's going to go to the other direction, isn't it? Let's make this 4000 Floor hallway and we'll say this line here at the top of the page represents the exterior wall to the hallway. And the door would open this direction, correct?

Kammer
A. Uh-huh.

Nemeth
Q. Pulls out towards you, hinges on left side. And this is as you face the--the Module 4400. You walk in--a pay phone here, there's a laundry room/storage room here, and that kind of forms a wall there. This kind of forms a wall here. The doorway here to a mop closet. Does this look accurate to you so far?

Kammer
A. (inaudible)

Nemeth
Q. You made a sound, but I don't know if the tape's gonna determine what that was. Yes or no?

Kammer
A. As far as the storage room, I'm not--I'm not sure what side of the storage room is on, but--

Nemeth
Q. Okay.

Kammer
A. --you drew it on the left side as you enter.

Nemeth
Q. Okay, this is--

Kammer
A. I'm not sure if it's there or not.

Nemeth
Q. Yeah. There's a window and a door to it.

Schwab
A. Okay, so you're taking the sergeant's representation on that.

Kammer
A. Yeah.

Nemeth
Q. Right--you--okay. And then this would be the officer's security booth. And this would be--

Kammer
A. Denver.

Nemeth
Q. --Denver, Baker--

Kammer
A. Abel.

Nemeth
Q. --Abel, Charlie rows. And this area here would be the showers and bars. These are bars, right?

Kammer
A. Uh-huh.

Nemeth
Q. And then on top is Denver, top, and bottom is Baker. Correct?

Kammer
A. Correct.

Nemeth
Q. Showers configuration? And this is the module officer's booth. Is that correct?

Kammer
A. Uh-huh.

Nemeth
Q. Okay. Now show me which way the inmate's head was pointing. If you could just point to it with your finger. It was over here?

Kammer
A. Uh-huh.

Nemeth
Q. This is the head?

Kammer
A. Yes.

Nemeth
Q. Okay. Your representative is here and I'll just make the mark where he pointed. We're gonna agree that if I do something that he's not pointing to, you'll let us know. That's the head, right?

Kammer
A. Uh-huh.

Nemeth
Q. Okay. Where is the inmate's upper torso at?

Kammer
A. It would be right in here.

Nemeth
Q. Right in here? Going straight, this way?

Kammer
A. Yeah.

Nemeth
Q. Okay, so his torso comes out straight, which is now perpendicular to these gates, right?

Kammer
A. Right.

Nemeth
Q. Or parallel to these gates--

Schwab

Q. Parallel.

Nemeth
Q. --and perpendicular to--

Kammer
A. Par--parallel--

Nemeth
Q. --the shower.

Kammer
A. Correct.

Nemeth
Q. Okay. All right, how about his legs? Ooops. Where--where is the inmate's legs on the drawing? Right--right back here?

Kammer
A. Yes.

Nemeth
Q. Following off his torso?

Kammer
A. Yes.

Nemeth
Q. Okay. Correct?

Kammer
A. Uh-huh.

Nemeth
Q. And is this where you were? Right--

Kammer
A. Yes.

Nemeth
Q. --here? Is that correct? Or further up?

Kammer
A. You'd have to draw some feet, so I can reference where his--

Nemeth
Q. All right.

Kammer
A. --ankle--ankle and calf area was.

Nemeth
Q. Put his feet in here.

Kammer
A. I was right in--right in here.

Nemeth
Q. Okay, you were on the inner side of his legs then. Is that right? Inside?

Kammer
A. It was more the back of his leg, not the inner.

Nemeth
Q. Okay. But right here. This is where you want me to put the "X" where you were?

Kammer
A. It was more in here. Close--closer to his ankles.

Nemeth
Q. Okay, right here? Is that right?

Kammer
A. Oh, on his leg.

Nemeth
Q. On his left--on top of his leg, you want me to put the "X"? Right there?

Kammer
A. (inaudible) that's where I was holding--

Nemeth
Q. Okay, that's where you were holding. And where was your body?

Kammer
A. My body was right here.

Nemeth
Q. Right here?

Kammer
A. Towards, right in here.

Nemeth
Q. Right in here?

Kammer
A. Yeah, somewhere in there.

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(BOOK 2 of 8)
Part 2

Nemeth
Q. Okay. And the "X" represents where you were holding him, right?

Kammer
A. Right.

Nemeth
Q. And you were on the outside of his leg.

Kammer
A. Yes.

Nemeth
Q. Is that correct? Okay. And you are facing which direction?

Kammer
A. I'm facing this direction.

Nemeth
Q. So you're pointing this way. Is that right?

Kammer
A. Yes.

Nemeth
Q. Not at an angle, straight. You're looking at the Abel-Charlie showers?

Kammer
A. Right.

Nemeth
Q. Okay. Okay, and that makes your back towards the inmate's head, right?

Kammer
A. Correct.

Nemeth
Q. Okay. Now we have that. Want to use that for--for the records, if we need to. Okay. If you need to refer to this sketch you can do that. Okay, so you didn't see anybody use any impact weapons or OC spray, right?

Kammer
A. No.

Nemeth
Q. All right. And now, you get up--you and your partner get up when leave to go wash your hands, right?

Kammer
A. Right.

Nemeth
Q. Okay. I guess what I wanted to do with this drawing real quickly before I forget is, where was the blood that you saw when you first came in? (Inaudible) and I'll make a mark.

Kammer
A. I--I--I--I remember seeing it when we came in, but I can't recall exactly where it was.

Nemeth
Q. Why--was it--was it in the hallway over here when you first enter? Or was it somewhere in this area?

Kammer
A. I can't recall. I believe it was somewhere over in--it would have to be somewhere over in this area where the--

Nemeth
Q. Somewhere in this area.

Kammer
A. --inmate was. But as far as--

Nemeth
Q. Okay.

Kammer
A. --what side or where, I don't remember where I saw it, so--

Nemeth
Q. Okay.

Kammer
A. --but I do remember seeing it, so.

Nemeth
Q. Okay. You do remember seeing it. And you--

Kammer
A. Yes, I remember seeing it, but as far as what side and--and how much, I don't know.

Nemeth
Q. Okay. And the inmate wasn't laying on the blood though or anything like that, correct?

Kammer
A. You know, I--I--

Nemeth
Q. Well you saw it, right?

Kammer
A. I--I--I remember seeing blood there, but as far as--I don't know if he was laying in it or--

Nemeth
Q. Okay.

Kammer
A. --you know, I don't know--

Nemeth
Q. But in other words--

Kammer
A. --what to tell you.

Nemeth
Q. All the blood there wasn't concealed by the inmate's body because you saw it when he's in this position--

Kammer
A. Yes, I saw a little bit there.

Nemeth
Q. --correct?

Kammer
A. Yes.

Nemeth
Q. Okay. Alright, so now you--you realize your partner's finger's cut, or actually you just got up because you thought the incident was over, right?

Kammer
A. Uh-huh.

Nemeth
Q. Is that right?

Kammer
A. Yes.

Nemeth
Q. You nod your head. We need to get that answer on tape.

Kammer
A. Yes.

Nemeth
Q. Okay. And you both left for 9000th Floor?

Kammer
A. After we had checked his finger for damage. We went back upstairs.

Nemeth
Q. All right. Did either of you have blood on you?

Kammer
A. No.

Nemeth
Q. Blood on your uniforms?

Kammer
A. No.

Nemeth
Q. Blood on your hands?

Kammer
A. No.

Schwab
A. Well except for Deputy Broad.

Kammer
A. Well Broad, yeah.

Nemeth
Q. His own blood.

Kammer
A. It was his own blood, yeah.

Nemeth
Q. Okay. And was--was it bleeding severely or--

Kammer
A. No, no.

Nemeth
Q. --minor cut?

Kammer
A. Yeah, very--I mean, it wasn't--it was--it was red. It wasn't where it was dripping out or anything. It was very minor.

Nemeth
Q. But it was cut. The skin was open, is that correct?

Kammer
A. It was--it was open, yes.

Nemeth
Q. Okay.

Kammer
A. But it was very--it was a very small cut.

Nemeth
Q. Okay. Was it reported to a supervisor as an injury?

Kammer
A. I don't know about that.

Nemeth
Q. Do you know how he received the cut?

Kammer
A. No. He had mentioned to me earlier in the evening that he had gotten it from a--a possible paper cut.

Nemeth
Q. Oh, a paper cut.

Kammer
A. Because he had remembered, he had cut it early in the night and he thinks it had opened up--

Nemeth
Q. Oh.

Kammer
A. --again, so--

Nemeth
Q. Okay. So you didn't go--he didn't go the clinic with you, as far as you know, for treatment on that cut then.

Kammer
A. Neither one of us went to the clinic.

Nemeth
Q. Okay. Okay. Now when did Deputy Barrett show up?

Kammer
A. I don't remember seeing Barrett when--when we had gotten up and we were leaving. He was just coming in the door.

Nemeth
Q. He was just arriving for the first time?

Kammer
A. Yes, yes.

Nemeth
Q. Okay. And he was opening the door or standing at the door or what do you mean, "coming in the door"?

Kammer
A. I--I--I believe he had just walked in--he had just opened the door and we were walking by him.

Nemeth
Q. Okay. All right. Do you know where he went after you walked by him?

Kammer
A. I don't know.

Nemeth
Q. You--you--

Kammer
A. Don't know.

Nemeth
Q. You passed him at the doorway towards this--

Kammer
A. Yeah.

Nemeth
Q. --front end of the diagram here?

Kammer
A. Yeah.

Nemeth
Q. Okay. So you don't know what he did after that. Is that correct?

Kammer
A. No.

Nemeth
Q. Okay. And that was your last involvement, the Module 4400 that night, was it?

Kammer
A. Last involvement?

Nemeth
Q. Yeah. Was that your last time you showed up at this module that evening?

Kammer
A. Yes, yes.

Nemeth
Q. Okay. How long, from the time you arrived in Module 4400 until the time you and Broad left, do you think--how much time do you think elapsed?

Kammer
A. Matter of seconds.

Nemeth
Q. Matter of seconds?

Kammer
A. Yeah.

Nemeth
Q. How many seconds?

Kammer
A. Anywhere from 5 to 15, 5 to 15 seconds, maybe a little more.

Nemeth
Q. Maybe a little more than--

Kammer
A. Yeah, I mean--there--it could've been--from the time that we got there?

Nemeth
Q. Yes.

Kammer
A. It was a matter of seconds. I'd say any--le--let's say less than 30 seconds we were in there.

Nemeth
Q. Okay. All this--

Kammer
A. Less than 30 seconds.

Nemeth
Q. All right. All this that we've been talking about for roughly an hour took place in less than 30 seconds. Is that what you're saying?

Kammer
A. From the time I got there.

Nemeth
Q. From the time you got there. You got there, you came in, you saw the relief take place at the module. Saw Sloan come out, take a position on the inmate's lower right side. You and your partner noticed the inmate's legs were free, correct?

Kammer
A. Mm hum.

Nemeth
Q. Did you see the inmate's legs kicking?

Kammer
A. They were squirming around.

Nemeth
Q. Squirming around. What's squirming around?

Kammer
A. Well I guess you could describe it as--as--an--how would you say it--I mean, as far as squirming, they were moving around. They weren't fixed in a position where--

Nemeth
Q. All right. So you and Broad decided to position yourselves on the--on the legs. You, yourself, can say that you were on his ankle between his calf and ankle, correct? On his left side, the inmate's--

Kammer
A. Yes.

Nemeth
Q. --left side. And you held that position until he was handcuffed, correct?

Kammer
A. Yes.

Nemeth
Q. And then you got up and you and Broad got up roughly the same time? Is that correct?

Kammer
A. Yes.

Nemeth
Q. And Broad showed you the cut on his finger while you were standing here in the--

Kammer
A. Yes.

Nemeth
Q. --module?

Kammer
A. Yes.

Nemeth
Q. And then you left.

Kammer
A. Yes.

Nemeth
Q. And all that took place in about 15 or 30 seconds?

Kammer
A. Less than 30 seconds. It was a matter of seconds.

Nemeth
Q. Less than 30 seconds?

Kammer
A. Yes.

Nemeth
Q. Okay. All right. And while you were there--the entire time you were in the module, did you see the inmate hit any deputies?

Kammer
A. No, I didn't.

Nemeth
Q. Did you see the inmate punch any deputies?

Kammer
A. No.

Nemeth
Q. Did you see the inmate kick any deputies?

Kammer
A. No.

Nemeth
Q. Did you see the inmate strike any deputies or injure any deputies in any way?

Kammer
A. No.

Nemeth
Q. Okay. Alrighty. Now you leave and that concludes your involvement in the--in the incident. Is that correct? At that point?

Kammer
A. No.

Nemeth
Q. Doesn't?

Kammer
A. No.

Nemeth
Q. What happened?

Kammer
A. After we got back upstairs, I had called down to--and I--I can't remember who I talked to, and basically told 'em if they needed us, we were up here on the floor and that we'd be down, you know, just give us a call. I can't recall who I talked to then.

Nemeth
Q. Okay. Well where did you call? What--

Kammer
A. We were on 9000th Floor 'cause we had gone back upstairs from (inaudible).

Nemeth
Q. Okay. Okay. Where did you call? Did you call the watch commander? Did you call the main control? Where were you calling?

Kammer
A. I called down to 4000.

Nemeth
Q. To the booth? To 4400? To--

Kammer
A. That I can't remember. I--I can't remember off-hand.

Nemeth
Q. Okay. But you called somebody on 4000 and you don't know who you talked to or even where you were calling, correct?

Kammer
A. I believe--I--

Nemeth
Q. Well take your time to look that over if you want.

Kammer
A. I want to say I--I--I--Deputy Sloan is who I talked to.

Nemeth
Q. Okay. Do you remember where you phoned him?

Kammer
A. I phoned him from 9000 Control.

Nemeth
Q. Okay. Where was he at? Where were you calling? You said somewhere on 4000. Was that a--

Kammer
A. I--yeah, I can't--

Nemeth
Q. --module or--

Kammer
A. I can't remember if he was in the booth or the module. I'm not sure.

Nemeth
Q. Okay. So you talked to Sloan, and what did you tell Sloan?

Kammer
A. I basically told him if it--I told what we had done and that if he needed us, give us call, we'll be right down to write any paperwork. And next--next thing I knew, you know, nothing was being said to us. We started getting busy on the floor. I didn't talk to those guys the rest of the night and then it was my days off the next--I had kicked off my RDO's and when I came back, I found out that they were [redacted].

Nemeth
Q. Okay. And what did you do at that point?

Kammer
A. Well I didn't do anything.

Nemeth
Q. Okay.

Schwab
A. You were subsequently (inaudible)?

Kammer
A. Yes.

Nemeth
Q. All right. So this incident happened on the very early morning hours of October 27, 1994, and you're saying your [redacted] were the 28th, the 29th, the two days immediately after this incident? Is that right?

Kammer
A. I believe so.

Nemeth
Q. Okay. And then when you came back on the 30th, you--you learned that these deputies had been (inaudible), correct?

Kammer
A. Yeah.

Nemeth
Q. Okay. Now let's go back to that night at the module, okay?

Schwab
A. That's the only thing we've done.

Nemeth
Q. Yes, that's right. Well that's what we're here to talk about. So you're there and this all happens and you talk to Sloan and you tell him, you made the comment a minute ago, you said, "I told 'em what we did." And what do you mean by, "told 'em what we did"? What you just described to us, the restraining force--

Kammer
A. Yes.

Nemeth
Q. --you used?

Kammer
A. Yes, I wouldn't call it force though.

Schwab
A. Right. We don't consider that was force. So when you say, "restraining force," that's your--

Nemeth
Q. Okay.

Schwab
A. --preposition.

Nemeth
Q. That's a good point. I'm glad you brought that up. How come--

Schwab
A. I'm glad I could correct you. I had that opportunity, sergeant.

Nemeth
Q. Oh, yes. I don't know if characterization of correction is appropriate, but it is--I will concede that it was a reminder.

Schwab
A. It's physical contact incident, not force.

Nemeth
Q. Okay. Are you familiar with the department's force policy?

Kammer
A. Yes.

Nemeth
Q. Okay. You attended the academy, correct?

Kammer
A. Yes.

Nemeth
Q. Okay. And did you receive force training in the academy?

Kammer
A. Yes.

Nemeth
Q. And what were you told in that training?

Schwab
A. Everything? Every single--

Nemeth
Q. No.

Schwab
A. --thing he was--

Kammer
A. I--

Nemeth
Q. No. What were you told regarding force and re--

Kammer
A. At the time in the academy?

Nemeth
Q. --reporting force? Yes.

Kammer
A. At the time in the academy, reporting force, you report it to the immediate supervisor.

Nemeth
Q. Okay. And how do you do that reporting to an immediate supervisor?

Kammer
A. Report it to him. Go up and tell him what you did.

Nemeth
Q. Go up and tell him what you did. Does that imply--you--you're saying in person? You--you contact him personally and tell him what you did?

Kammer
A. Yes.

Nemeth
Q. Okay. And when you say "supervisor," what do you mean by "supervisor"?

Kammer
A. Sergeant or above.

Nemeth
Q. Okay. And you learned that in the academy, correct?

Kammer
A. Yes.

Nemeth
Q. All right. And then you went to Central Jail, right?

Kammer
A. Yes.

Nemeth
Q. And did you receive some kind of state mandated custody training in Central Jail?

Kammer
A. Yes.

Nemeth
Q. Okay. And did they talk about force and reporting force at that time?

Kammer
A. Yes.

Nemeth
Q. And was it essentially the same thing you learned in the academy?

Kammer
A. Yes.

Nemeth
Q. So that's the second time you've been trained in it, correct?

Kammer
A. Yes.

Nemeth
Q. Okay. Now when you--you worked Central Jail for a little over two years, between the time you were first assigned there and the time of this incident, correct?

Kammer
A. Yes.

Nemeth
Q. Okay. And during that time, you attend shift briefings, do you?

Kammer
A. Yes.

Nemeth
Q. Are you provided with recurrent training during those briefings?

Kammer
A. Yes.

Nemeth
Q. Okay. Is some of that recurrent training regarding use of force?

Kammer
A. Yes.

Nemeth
Q. And reporting use of force?

Kammer
A. Yes.

Nemeth
Q. And defining what force is?

Kammer
A. Yes.

Nemeth
Q. What is your understanding of what force is on the Sheriff's Department?

Kammer
A. My understanding? The--basically force is the--the use of denying the person the freedom of--or overcoming their amount of force that's exerted against you.

Nemeth
Q. Okay. And by your definition, do you believe your actions on this early morning that we were just talking about constituted force?

Kammer
A. I do not believe so.

Nemeth
Q. You don't?

Kammer
A. No.

Nemeth
Q. Why not?

Kammer
A. I believed it to be restraint.

Nemeth
Q. To be restraint? All right. I want you to take a look at this (inaudible)--

Schwab
A. Are you--are you arguing with him at this time, sergeant?

Nemeth
Q. No, no I'm not arguing with him.

Schwab
A. Okay, why are you having him look at something?

Nemeth
Q. Well because it's part of the Manual of Policy and Procedures, something that he's responsible to know and abide by.

Schwab
A. Okay, and he says he knows it and he abided by it--

Nemeth
Q. (inaudible)

Schwab
A. --abided by it in this incident.

Nemeth
Q. All right. That doesn't change the fact that I'm going to ask him to read this, okay?

Schwab
A. Okay, that's fine. We have no problem--

Nemeth
Q. Read this--

Schwab
A. --if you ask him to read anything you want him to read.

Nemeth
Q. Read, read this into the--read this aloud.

Schwab
A. Oh, come on. He's not going to read that aloud.

Nemeth
Q. Yes, he is.

Schwab
A. Well then you read it aloud into the record.

Nemeth
Q. No, I'm asking him--

Schwab
A. This is not a game.

Nemeth
Q. You're absolutely right and if you don't stop disrupting the interview, we'll terminate it. We'll begin it--

Schwab
A. Sergeant--

Nemeth
Q. --later on.

Schwab
A. --you're arguing with the deputy.

Nemeth
Q. No, I'm not.

Schwab
A. He told you what his--

Nemeth
Q. Deputy Kammer--

Schwab
A. --best understanding is.

Nemeth
Q. Fine, thank you. Please don't raise your--

Schwab
A. And until you can lower--

Nemeth
Q. --voice at me.

Schwab
A. I'm trying to talk here, sergeant. Until you can lower--

Nemeth
Q. (inaudible)

Schwab
A. --your voice, we'll take a break.

Nemeth
Q. Okay. No, we won't take a break, first of all.

Schwab
A. Yes, we will take a break. Whenever I want to take a break with my client--

Nemeth
Q. Deputy Kammer, I want--

Schwab
A. --and that's his right under--

Nemeth
Q. Okay.

Schwab
A. --the Government Code.

Nemeth
Q. Great. Deputy Kammer--

Schwab
A. Yeah, I think it is great. I agree with you.

Nemeth
Q. Deputy Kammer, I'm gonna--

Schwab
A. It's great to have those rights.

Nemeth
Q. Are you finished?

Schwab
A. Okay, my client will be happy to read that, but he's not going to read it into the record. And he doesn't have to read it into the record. The document speaks for itself. But he'll be happy to read it to himself and answer any questions that you have regarding the use of force, which he does not believe he used in this incident.

Nemeth
Q. Okay. Thank you for giving your opinion on the event. Deputy Kammer, I'm going to order you to read the first portion of this highlighted document right here, aloud.

Schwab

A. Is this a circus, sergeant? Is this supposed to be demeaning to the deputy?

Nemeth
Q. No. This--

Schwab
A. Then why is, why are you asking him to--

Nemeth
Q. Why are you making a production--

Schwab
A. --read it out loud?

Nemeth
Q. --out of this?

Schwab
A. Why can't he just read it to himself?

Nemeth
Q. Because I want him to read aloud into the record, Miss Schwab. Read it.

Schwab
A. Okay, is there something incorrect about this? Is this a test in some way? Whether or not he can read?

Nemeth
Q. Do you understand your order, Deputy Kammer?

Schwab
A. Sergeant, is this a test? As to--

Nemeth
Q. No.

Schwab
A. --whether or not this deputy can read?

Nemeth
Q. This is not an unreasonable instruction for the subject to read this--

Schwab
A. Why don't you read it into the record?

Nemeth
Q. Because I'm telling him to do it.

Schwab
A.   Okay, that's an unreasonable order.

Nemeth
Q.   It is not unreasonable.

Schwab
A.   You want him to read the entire Policy and Ethics Chapter--

Nemeth
Q.   No, I do not. Miss Schwab, if you listen to my instruction, I asked him to read one sentence that's highlighted which is the very first sentence under Manual Section 3-01/030.20 Use of Force.

Schwab
A.   Lower your voice, sergeant. You're not going to be yelling at my client in this interview.

Nemeth
Q.   I'm not yelling at him, Miss Schwab.

Schwab
A.   Take a break.

Nemeth
Q.   Deputy Kammer, read the statement before--

Schwab
A.   No.

Nemeth
Q.   --we take a break.

Schwab
A.   Sergeant, until you can lower your voice, you're not going to subject my client to intimidation. He'll be glad to take this with him--

Nemeth
Q.   I'll tell you what, Miss Schwab, what we'll do is, at this point you're becoming extremely disruptive to the interview. You are interrupting the--

Schwab
A.   Sergeant--

Nemeth
Q.   --flow of the questioning--

Schwab

A. --when you can control your temper, we will come back. But you are not going to lower--raise your voice at my client and try to intimidate him.

Nemeth
Q. I'm not intimidating your--

Schwab
A. He gave you--

Nemeth
Q. --client.

Schwab
A. Yes, you are.

Nemeth
Q. No, I'm not.

Schwab
A. And I'm not going to permit you to do that. We're taking a break. When you can control your temper, we'll be back.

Nemeth
Q. Well I'll tell you what we do--

Schwab
A. We'll take about ten minutes. We've been in here an hour and a half already.

Nemeth
Q. Well no, we didn't. We started at 10:30. What we're going to do, Deputy Kammer, is we're going to conclude your interview for today, okay? It's obviously deteriorated to the point where your representative has continued to interrupt the flow of the interview. She has caused a major disruption. We were getting close to concluding the interview--

Schwab
A. And that's my interpretation too, sergeant. And we are more than willing to stay here, but we will take a break now until you can lower your voice during this interview.

Nemeth
Q. Let me say, Miss Schwab--

Schwab
A. You are not going to intimidate my client. We need to take a break. We'll be--

Nemeth
Q. (inaudible)

Schwab
A. --right outside and when you are ready to interview him where you don't raise your voice (inaudible)--

Nemeth
Q. Well I would be glad to--I'm telling you, I'm ready to interview him right now, Miss Schwab.

Schwab
A. Okay, we want to take a break. We're not going to be subjected to your yelling.

Nemeth
Q. I am not yelling at him. Why (inaudible)--

Schwab
A. You were yelling at him moments ago and we're taking a break now.

Nemeth
Q. Okay. But we're going to reschedule your interview, Deputy Kammer, okay?

Schwab
A. Deputy Kammer will be right outside. We'll be ready to resume in about ten minutes, assuming you can keep your voice down.

Nemeth
Q. Okay, let's take a break. I believe the record will speak for itself to that issue. Time is 11--(END OF TAPE 1). All right, this is tape 2 of Deputy Kammer's subject interview, IAB case number 008383. You made the statement prior to going, resuming the interview--Deputy Kammer, I was instructing you to read that statement. Are you going to do it at this time?

Schwab
A. He's read it.

Nemeth
Q. Okay. Are you going to read the statement aloud at this time?

Schwab
A. Is that your order, sergeant?

Nemeth
Q. Yes, it is.

Schwab
A. Okay.

Kammer
A. Yes.

Nemeth
Q. Please do.

Kammer
A. Policy and Ethics, 3-01030.20 Use of Force, Force for the purpose of reporting is defined in any physical effort used to control or restrain or overcome the resistance of another.

Nemeth
Q. Okay. Now is that the policy that you understood--was trained to you in the academy?

Kammer
A. Yes.

Nemeth
Q. Okay. Your involvement in this case, with the inmate, do you believe that, that qualifies under the definition of force that you just read?

Kammer
A. No, I do not.

Nemeth
Q. Okay. And why not?

Kammer
A. Because I don't believe I was--the last part, "overcoming--

Nemeth
Q. Okay.

Kammer
A. --restraint"?

Nemeth
Q. Okay. Did you read the--the word right before "overcoming"? It says "or" the word--

Kammer
A. Or, yeah, or.

Nemeth
Q. Okay. And what--what the policy actually says is, any physical effort used to control, restrain, or overcome, okay? So

the fact is overcoming resistance is not a requirement. It's one of but restraining. Do you believe your efforts at--with Inmate [redacted] were to restrain his leg?

Kammer
A. No.

Nemeth
Q. What were you doing with his leg?

Kammer
A. I was holding it in a position to assist the other deputies.

Nemeth
Q. What required you to hold his leg?

Kammer
A. The amount that he was struggling around.

Nemeth
Q. He was struggling, that's why--

Kammer
A. He was squirming around.

Nemeth
Q. Okay.

Schwab
A. You know, sergeant, it sounds like you've prejudged the case already and that you're the executives making the determination in this case regarding whether or not force was used. Is that what you've done?

Nemeth
Q. Absolutely not.

Schwab
A. Because that's not my understanding of the role of the investigator--is simply to gather the facts.

Nemeth
Q. Absolutely right. But you know what, if you have an objection to a question I'm asking or something, you're welcome to make it. And as you know, your--

Schwab
A. Okay, my objection is--

Nemeth

Q. --remedies lie in the civil service arena. At this point, we're--

Schwab
A. Thank you for advising me of that, sergeant.

Nemeth
Q. Okay.

Schwab
A. My objection at this point is that--the way in which you were trying to argue with the deputy about his belief as to whether or not force was used suggests that you have made a predetermination and prejudgment in the case as to possible policy violations. It's my understanding that IAB investigators are simply here to gather the facts, not to make judgements regarding policy violations. At this point, I feel you are arguing with Deputy Kammer as to whether or not he used force.

Nemeth
Q. No, that's not true. What I'm asking Deputy Kammer is to explain to me why he believes that his actions with Inmate [redacted] did not fall under this definition of force that you just read.

Schwab
A. He's done that twice already. Is there something you didn't like about his response?

Nemeth
Q. It has nothing to do whether I like it or not, I--

Schwab
A. Okay. Do you want him to change his response in some way?

Nemeth
Q. No, I do not. I want him to tell me the truth. I want you to tell me--

Schwab
A. Are you suggesting he hasn't told you the truth?

Nemeth
Q. No, that's not at all what I'm suggesting. What I want you to do, Deputy Kammer, is tell me why you grabbed the inmate's leg.

Kammer
A. I saw it squirming around.

Nemeth
Q. Okay. And what--what necessitated you touching his leg, even if it was squirming?

Kammer
A. To assist the other deputies.

Nemeth
Q. In doing what?

Kammer
A. In helping to control him.

Nemeth
Q. Control the inmate?

Kammer
A. Yes.

Nemeth
Q. For what reason?

Kammer
A. So they could get him handcuffed and under control.

Nemeth
Q. Okay. And--I'm not going to play a game of semantics with you, but what you just said is "control the inmate" and what this policy says is "any physical effort used to control, restrain, or overcome the resistance of another." That's what you were doing to control the inmate, correct? That--

Schwab
A. We don't--we don't agree with your interpretation of the use of force, sergeant, which you're not suppose to have made a predetermination or prejudgment on. We don't agree with characterization and the deputy has said so.

Nemeth
Q. Okay.

Schwab
A. Don't put words in his mouth.

Nemeth
Q. I absolutely did not. It was his mouth that uttered the word "control" and your responding and interrupting the flow of questioning is a continuance of your disruptive behavior in this interview of this client.

Schwab
A. Sergeant, we're not here to evaluate my conduct.

Nemeth
Q. Great.

Schwab
A. We're only here to gather the facts in this investigation. Unless you say otherwise, are we here to make judgements on the deputy?

Nemeth
Q. Absolutely not. We're here to get to the facts and if you would restrain yourself and control your objections to the appropriate time, after the questions has been answered, once the question is on the table, the normal protocol is--

Schwab
A. No, no, no, no, no.

Nemeth
Q. The (inaudible) allows you to answer the question.

Schwab
A. No, no, no. That is not in the Government Code. Being a representative means objecting to being argumentative by the investigator, intimidating the deputy involved in the case, or in any way attempting to influence or change his responses, because you personally are not satisfied with him. That is not appropriate. You are simply here to gather the deputy's responses.

Nemeth
Q. That's true. And I wouldn't be doing my job, Deputy Kammer, if I didn't give you every opportunity to explain yourself, to explain your actions, and to explain your thought processes for the executives to review. And that's what I'm trying to do, despite the objections of your representative. I'm trying to get you and give you every opportunity to explain your thought process, why you didn't report your involvement in this matter, okay, that's all I'm trying to do. All right? Your representative may make it sound like it's something else. That's the only reason we're here today is to get your side of the story, to get your sequence of events, okay?

Schwab
A. We're happy to hear that, sergeant.

Nemeth
Q. All right. Now, Deputy Kammer, you said you called Deputy Sloan after the incident from 9000, correct?

Kammer
A. Yes.

Nemeth
Q. Okay. And you told 'em what you had done regarding the inmate's legs, controlling the inmate's legs. Is that correct?

Kammer
A. Uh-huh.

Nemeth
Q. Wait, you have to say "yes" or "no."

Kammer
A. Yes.

Nemeth
Q. Okay. Did you ever personally notify a sergeant or above?

Kammer
A. No, I did not.

Nemeth
Q. Okay. And did you ever write any report on this incident?

Kammer
A. No, I did not.

Nemeth
Q. Do you keep a deputy notebook that you carry with you at the jail?

Kammer
A. Yes, I do.

Nemeth
Q. Do you make daily entries in it?

Kammer
A. No, I don't.

Nemeth
Q. Okay. What do you carry the notebook for?

Kammer
A. I--in case I have to write a report (inaudible).

Nemeth
Q. Take notes (inaudible)--

Kammer
A. We have a fax here.

Nemeth
Q. Okay. To record pertinent events that occur on your shift. Is that a fair statement?

Kammer
A. Sometimes.

Nemeth
Q. Sometimes you choose to take notes and sometimes you don't?

Kammer
A. Sometimes I do and sometimes I don't.

Nemeth
Q. Okay. And did you write any notes in your deputy notebook regarding this incident?

Kammer
A. I don't recall.

Nemeth
Q. Is it possible that you did that?

Kammer
A. I don't recall.

Nemeth
Q. You haven't ever reviewed your notebook in--after the prior interview or before the prior interview?

Kammer
A. No.

Nemeth
Q. Okay. Well I'm gonna--

Kammer
A. I mo--I moved and I lost quite--I lost some of my notebooks, so--

Nemeth
Q. So you may--

Kammer
A. --I'm still trying to find them.

Nemeth
Q. Have you lost this notebook?

Kammer
A. I don't know.

Nemeth
Q. Okay. But you never looked at--at your notebook?

Kammer
A. No, no.

Nemeth
Q. Okay. So you don't know whether you have this notebook now or not? Answer.

Kammer
A. No.

Nemeth
Q. And you don't know whether you wrote something about this incident or not, correct?

Kammer
A. Correct.

Nemeth
Q. So in other words, it's possible that you did write something about this incident in your notebook. Is that correct?

Kammer
A. It's possible.

Nemeth
Q. Okay. I'm going to order you to look for your notebook, okay? If you find the notebook that contains an entry for October 27, 1994, regarding this in--incident, I want you to call me, okay? You have my number from when I contacted you earlier?

Kammer
A. Yeah.

Nemeth
Q. Okay. And how long do yo think it'll take you to accomplish that?

Schwab
A. With an arm in a cast? Let's see.

Nemeth
Q. So there's a chance you'll take(inaudible)--

Kammer
A. I--I--I don't--

Nemeth
Q. --another day or so to us?

Kammer
A. I--I couldn't even say 'cause everything right now is in boxes.

Schwab
A. Well opening up boxes, trying to (inaudible)--

Kammer
A. Well I--

Schwab
Q. --that could take quite awhile.

Kammer
A. I can--

Nemeth
Q. Did you move your personal residence? Is that what happened?

Kammer
A. Yes.

Nemeth
Q. And your deputy notebooks is among those items?

Kammer
A. Yeah, everything.

Nemeth
Q. Okay.

Kammer
A. It's all in boxes right now. I have--

Nemeth
Q. Okay.

Kammer
A. I don't know which boxes got what.

Nemeth
Q. All right. So let me ask you this. Is it something that possibly that you can do within two weeks time to look for this notebook?

Kammer
A. Yes.

Nemeth
Q. Okay. Let's make it two weeks from today, okay? November 30th--on or before November 30th, I'll expect a phone call from you telling me whether you were able to locate the notebook or not, okay? And whether you were able to--if you find the notebook, if it contains an entry for this date, okay?

Kammer
A. Yeah.

Nemeth
Q. All right. So you don't remember if you wrote any notes. You know you didn't write any reports though. Is that right?

Kammer
A. Right.

Nemeth
Q. Any kind of report. Shaking your head.

Kammer
A. No.

Nemeth
Q. Okay. Is there a reason why you did not report to the sergeant your involvement in this event?

Kammer
A. A reason why?

Nemeth
Q. Right.

Kammer
A. When I had called down to Sloan, I had assumed that he would tell the sergeant who was there and inform him and then, you know, hopefully contact would be made to us. I didn't hear anything the whole night. And like I said, I--I questioned that from the beginning so (inaudible)--

Nemeth
Q. You expected them--

Kammer
A. I expected to be called 'cause normally, you know, once everybody goes in and talks to the sergeant and the sergeant starts gathering everything up and tries to put every--all the loose ends together.

Nemeth
Q. Uh-huh.

Kammer
A. So--

Nemeth
Q. Okay. And you made no effort yourself to contact the sergeant, correct?

Kammer
A. Other than talking to Deputy Sloan, no.

Nemeth
Q. Okay. And you understand that the policy of the Sheriff's Department requires you--makes it incumbent on you, the person who was involved in force or witnessing of force, to make that notification, in person, to a person of a rank not less than sergeant. Right?

Kammer
A. Correct.

Schwab
A. Where those two things have occurred, yes.

Nemeth
Q. Okay. All right. Now as far as what the other deputies were doing with the inmate, pulling his arm and handcuffs being applied, you feel that was an effort to control or restrain the inmate?

Kammer
A. By that definition?

Nemeth
Q. Yes, by that definition.

Kammer
A. Yes.

Nemeth
Q. The question stands on its own.

Schwab
A. Well, we're only talking about Sheriff's Department policies, sergeant.

Nemeth
Q. Right. Your answer was?

Kammer
A. Yes.

Nemeth
Q. Yes, you. You believe the--

Kammer
A. By hand--by handcuffing him, yes, it was. Seeing the handcuffs placed on him, I didn't see that.

Nemeth
Q. Okay. But you were there--

Kammer
A. --But when I looked back, the handcuffs was on his left--

Nemeth
Q. Right.

Kammer
A. --arm and then when I looked back again, the other handcuffs was off. So as far as seeing the handcuffs go on, I can't say that I saw them go on.

Nemeth
Q. Right. That's true, but the policy doesn't say you have to see who applies the handcuffs, does it?

Schwab
A. Now you're arguing with the deputy.

Nemeth
Q. Well that--that's a question. (inaudible)--

Schwab
A. Well look at the policy. Give me--

Nemeth
Q. Okay, good.

Schwab
A. Do we need to read that in the record again to answer your question, sergeant?

Nemeth
Q. No. I--I haven't--I haven't made any--

Schwab
A. Because--

Nemeth
Q. --request to read onto the record. My question is--

Schwab
A. Okay. Because the--the document speaks for itself.

Nemeth
Q. That's right. Okay. So let me ask you this. When you were trained at the academy and when you were trained at the jail for your state custody training, were you told that you had to see a person apply handcuffs in order for it to qualify for an incident requiring you reporting it?

Kammer
A. I don't recall.

Nemeth
Q. All right. When you were in the module, did you see any inmates other than the inmate involved in the incident?

Kammer
A. Yes.

Nemeth
Q. Who did you see?

Kammer
A. There was a male white in the--the lower--I mean, the Baker shower.

Nemeth
Q. What was he doing?

Kammer
A. When we walked in there Deputy Sloan had come up, he was directing him to face the back wall.

Nemeth
Q. Who was directing him to face the back wall?

Kammer
A. It was--it was Deputy Sloan.

Nemeth
Q. Okay. What was the inmate doing as Deputy Sloan directed him to face the back wall?

Kammer
A. He was telling him to face the back wall, best I remember.

Nemeth
Q. Okay. So at some point, was he looking at the event, looking out of the shower?

Kammer
A. He could have been.

Nemeth
Q. Did you see it?

Kammer
A. I didn't see it.

Nemeth
Q. Did you see any other inmates besides that one you described?

Kammer
A. No.

Nemeth
Q. And where was he? In the Baker row shower? Is that what you said?

Kammer
A. Yes.

Nemeth
Q. Okay. Have you talked to anybody regarding this incident since the last time you were interviewed by Internal Criminals Investiga--

Kammer
A. No, I have not.

Nemeth
Q. Have you had any contact whatsoever with any of the deputies involved? Sloan, [redacted]

Kammer
A. No.

Nemeth
Q. --[redacted] [redacted] Kluth?

Kammer
A. No, I have not.

Nemeth
Q. All right. Have you talked to anybody other than your representative before we came in today regarding this interview and what you were going to say?

Kammer
A. No.

Nemeth
Q. All right. Sergeant Gjendem?

Gjendem
Q. Yeah. When you were up on 9000, how were you first alerted to this? Was there a telephone call placed in 9000, or did you hear the public address announcement?

Kammer
A. It was a public address announcement.

Gjendem
Q. Okay. And how many public address announcements were there--did you hear go out over the PA system?

Kammer
A. I don't know how many. I heard one, for me.

Gjendem
Q. Yeah, that was the question. How many did you hear--

Kammer
A. I saw--I heard one for me. I don't know how many went out though.

Gjendem
Q. Okay. Where were you at, at 9000?

Kammer
A. Below (inaudible).

Gjendem
Q. Where?

Kammer
A. In front of the control booth.

Gjendem
Q. In front of the control booth? Standing right there in front.

Kammer
A. Yes.

Gjendem
Q. Okay. And at that time, was Barrett and Romero standing next to you?

Kammer
A. Romero was there. Barrett was not.

Gjendem
Q. Where was Barrett at?

Kammer
A. I believe Barrett was in the--in the control booth.

Gjendem
Q. Okay.

Kammer
A. Because he was working movement control. And that's--

Gjendem
Q. Okay. And where--

Kammer
A. --that's where the movement control desk is.

Gjendem
Q. Okay. And where was Broad?

Kammer
A. Broad was outside in the hallway with us.

Gjendem
Q. So it was the three of you.

Kammer
A. Yes.

Gjendem
Q. Okay. And then--the three of you then took off and went downstairs--

Kammer
A. Correct.

Gjendem
Q. --immediately.

Kammer
A. Correct.

Gjendem
Q. Who was leaving that booth?

Kammer
A. Deputy Romero.

Gjendem
Q. And then you second?

Kammer
A. Yes.

Gjendem
Q. And then Broad behind you.

Kammer
A. Yes.

Gjendem
Q. And you were running?

Kammer
A. Briskly walking.

Gjendem
Q. Okay. And--

Kammer
A. We weren't--we weren't sure where the announcement was coming from.

Gjendem
Q. Okay. And when you got to the bottom of the stairs there at 9000 down towards 5000, how far back was Barrett? Top of the stairs?

Kammer
A. He--he wasn't behind us.

Gjendem
Q. He wasn't behind you?

Kammer
A. No.

Gjendem
Q. When you got down to 4000, was he behind you then?

Kammer
A. No, he wasn't. Not that I'm aware of?

Gjendem
Q. Okay. And when you got down to 4400, was Barrett behind you then in the hallway?

Kammer
A. Not that I'm aware of. When we left 4400, I saw Barrett coming in the door, so--

Gjendem
Q. So he was going in after it was all over?

Schwab
A. No--well--what do you mean? He was going in as they were leaving, so--

Kammer
A. As we were leaving, he was coming in, so--

Gjendem
Q. Okay. Was the hobble already on him at that time?

Kammer
A. I--

Schwab
A. Was the what?

Gjendem
Q. The hobble?

Kammer
A. I don't know.

Gjendem
Q. You don't know.

Kammer
A. No.

Gjendem
Q. The voice you heard on the PA announcement, the one that you say you heard, was it a male voice or a female voice?

Kammer
A. I couldn't tell you. I don't--

Gjendem
Q. Okay. Romero got there first, right? In seconds, how far were you behind Romero, when you reached the 4400 main door? Half a second?

Kammer
A. Three--maybe about three seconds. Three to four seconds behind him.

Gjendem
Q. Behind him?

Kammer

A. Yes.

Gjendem
Q. And how far was--

Kammer
A. Because I don't--I--I don't remember keying the door open and I'm not sure if Romero had keyed the door open or what. I don't remember that part of it. So I'm assuming that the door was already open and that Romero had keyed it when we got there, so, you know, he was--he was ahead of--ahead of us by a few seconds.

Gjendem
Q. Okay. How far was Broad behind you then?

Kammer
A. Broad was right behind me.

Gjendem
Q. Right behind you?

Kammer
A. Yeah.

Gjendem
Q. Split second, half a second?

Kammer
A. Yeah, yeah.

Gjendem
Q. Okay. You were on this side. Romero's right in front of you, correct?

Kammer
A. Yeah, a few seconds ahead.

Gjendem
Q. Okay. What was Romero doing when he first went inside?

Kammer
A. When he first went inside?

Gjendem
Q. Yes.

Kammer
A. He was asked by Sloan to relieve him at the booth there.

Gjendem
Q. How did he ask him and what did he say?

Schwab
A. You know, why do you have to go over that again?

Gjendem
Q. What we're the exact words--

Schwab
A. He already--sergeant, he already answered that question. Do you have a problem with his prior responses?

Gjendem
Q. No. Don't have a problem--

Schwab
A. Okay.

Gjendem
Q. --problem at all.

Schwab
A. 'Cause we'll need to go back and review the tape and if you're just going to have a wholesale reinterview on every single question.

Gjendem
Q. I'm trying to get the timing down between who went in at what time and what they said to each other.

Schwab
A. Okay. I can understand that.

Gjendem
Q. That's all.

Schwab
A. But he's answered that question already as to what he recalls being said.

Gjendem
Q. I don't recall him giving an answer to that--exactly what he said, if he remembers at all.

Schwab
A. He did exactly give that and I think Sergeant Nemeth's requested and I--

Nemeth
Q. Well what he said was, he didn't remember everything that was--he said he thought it was some general statement, "Can you come relieve me," or something like that, but what we're--

Schwab
A. "Can you hold the door," is what he said.

Nemeth
Q. Right. And what we're--what we're entitled to do, Deputy Kammer, as I told you earlier, we're entitled to explore this issue and your memory to get the best recollection you have so we can have the best statement that you're able to offer by what occurred there to present when this case is evaluated. That's what you'd want to have presented, wouldn't you?

Kammer
A. Right.

Nemeth
Q. So that's all we're trying to do.

Schwab
A. Well you're--it sounds like you're trying to get him to change his statement because he very clearly said on the record he could not remember exactly what was said. He thought it was something like, "Can you hold the door."

Nemeth
Q. Right.

Schwab
A. Or "Can you get the door."

Nemeth
Q. Exactly. And by your statement, he said he can't remember very clearly. That's why we're allowed to explore that memory.

Schwab
A. But why don't you ask him, do you remember any more clearly now than you did earlier as to what was said?

Nemeth
Q. Well I think as how the question is phrased, we have some ability to form our own questions.

Schwab
A. Well that's debatable.

Nemeth
Q. Go ahead, Deputy Gjendem. Remember the question?

Gjendem
Q. Could you--do you remember exactly how--what--what Sloan said to Romero or Romero said to Sloan to make this exchange?

Kammer
A. I'm assuming it was something, "Can you hold the door."

Gjendem
Q. You're assuming?

Kammer
A. Yeah.

Gjendem
Q. But you don't really know.

Kammer
A. Not--not for sure, no.

Gjendem
Q. Okay. Do you remember Romero holding the door?

Kammer
A. Yes.

Gjendem
Q. How would he hold that door?

Kammer
A. I can't recall.

Gjendem
Q. Did he have his back to the door?

Kammer
A. No, he--I can't recall. I know he went to the door, but how he was positioned or where he was standing, I--I don't know.

Gjendem
Q. But you saw him at the door.

Kammer
A. Yes.

Gjendem
Q. Well did the inmate seem to be in any pain?

Kammer
A. I--I--I don't--

Gjendem
Q. Was he screaming?

Kammer

A. --know if he was in pain or not. I wasn't in his po--his position, so--

Gjendem
Q. Was he yelling?

Kammer
A. He was yelling and screaming, yes.

Gjendem
Q. What was he saying?

Kammer
A. Just yelling and screaming. He wasn't saying anything specifically that I could make out. To me, it was just a lot of yelling, yelling and screaming.

Gjendem
Q. Turning your back to the inmate like that, did you consid--ever consider that being an officer safety issue or anything like that?

Kammer
A. Did I?

Gjendem
Q. Yes.

Kammer
A. No, I did not.

Gjendem
Q. No?

Kammer
A. No.

Gjendem
Q. There was a pretty good struggle going on down there between--between the inmate and the three initial deputies and then the fourth deputy.

Kammer
A. I wouldn't know.

Gjendem
Q. How long did the actual struggle last down there, on the floor, that you saw? From the time you went in module until the time you left the module?

Kammer
A. By the time I was there, it was just a matter of seconds. I--I'd put it anywhere less than 30 seconds.

Gjendem
Q. That's from the time you came in until the time you left.

Kammer
A. From the time I came in until the time I left, it was just a matter of seconds. Le--I would put it at less than 30 seconds. The exact time within that frame, I couldn't tell you.

Gjendem
Q. And you went directly to the inmate when you got there, correct?

Kammer
A. Yes.

Gjendem
Q. And how--when did you release that inmate? Just before you left?

Kammer
A. Once--once I heard he was hooked, I released him and that's when Deputy [redacted] had (inaudible) down.

Gjendem
Q. And that was the full 30 seconds.

Kammer
A. I couldn't tell you. I couldn't tell you how long that was.

Gjendem
Q. Did you see [redacted] handcuff the inmate?

Kammer
A. No, I did not.

Gjendem
Q. You did not. Broad--Broad, who was next to you, I believe on the inmate's right leg, correct?

Kammer
A. Correct.

Gjendem
Q. Did he have--what was his position on that right leg? Did he have a knee on it, a hand on it?

Kammer

A. I couldn't tell you. I don't know.

Gjendem
Q. How far were you from Broad?

Kammer
A. About maybe a (inaudible).

Gjendem
Q. (Inaudible)--

Kammer
A. Four to two.

Gjendem
Q. Four to two?

Kammer
A. (Inaudible)

Gjendem
Q. And you couldn't see him (inaudible).

Kammer
A. No.

Gjendem
Q. By his position.

Kammer
A. No.

Gjendem
Q. But you know it was Broad there on the right leg.

Kammer
A. Yes.

Gjendem
Q. Do you recall telling Sergeant Hamilton that when you arrived into the module, that the inmate had his hands behind his back?

Kammer
A. No, I didn't say that.

Gjendem
Q. You didn't say that?

Kammer
A. No.

Gjendem
Q. On page 42, this is statement from you, Kammer, it's answer, "No, I didn't because by the time I got in there, I saw how they were positioned. I can't describe, but by the time I got in there, they were already in the hands back."

Schwab
A. Let me see the transcript sergeant.

Kammer
A. Okay.

Gjendem
Q. For the tape, Deputy Kammer is reviewing his copy of the transcript of his prior statement.

Schwab
A. This was the question that (Inaudible)

Kammer
A. Okay, so what was the--the question was?

Gjendem
Q. (inaudible) I'll show you.

Schwab
A. (inaudible) need to change tapes.

Nemeth
Q. Take a break. It might tape--save tape. Time's 12:10 hours. Yeah. Can you remember the question of where we stopped off at?

Gjendem
Q. Yeah, the question was, do you recall Sergeant Hamilton asking you a question about handcuffing of the hands? And your response was as I read there. Do you recall giving that answer earlier?

Kammer
A. As I read it now, yes.

Schwab
A. And that's 'cause you--

Kammer
A. But, because I'm reading, but--

Schwab
A. Just--just because you read it doesn't mean you have to recall it. And you're reading it, what he wants to know is do you specifically recall stating that?

Kammer
A. No, I don't re--this statement.

Schwab
A. Specific--

Kammer
A. Specifically, no.

Gjendem
Q. So the answer you gave today with the struggle on the left arm under the inmate's chest area and the right arm, is that a more accurate statement than the statement you gave back on December 20, 1994?

Schwab
A. Well he can only answer as--

Kammer
A. Right.

Schwab
A. --to what he recalls now. Is that what you want to know? What he recalls today?

Gjendem
Q. What he recalls today.

Kammer
A. As far as today?

Gjendem
Q. What is your best recollected--recollection of October 27, 1994? Was it the--the hands were behind his back when you got there, or is it, the hands were under--hands and arms were under his chest?

Kammer
A. The arm--

Gjendem
Q. The inmate's.

Kammer
A. His left arm--or his left arm was coming out and his right arm was tucked underneath.

Gjendem
Q. Okay. So that's a better description that you're giving today--or as to how you recount it from today than when you gave on

the--you say you gave on December 20, 1994. Is that right or wrong?

Kammer
A. Yes.

Schwab
A. He can only state what he remembers today. That doesn't mean that what he said that time was inaccurate. That just means that he answered to the best of his ability at that time and he's answering to the best of his ability at this time.

Gjendem
Q. Okay.

Schwab
A. It's been over a year.

Nemeth
Q. All right. But the problem we have is, this answer--oh--are you ringing?

Schwab
A. My tape is--

Nemeth
Q. Okay. The--what we're asking is the answer here that you gave two months after the event when you were interviewed is substantially different than what you answered today.

Schwab
A. Oh, we don't agree with that, but--

Kammer
A. No.

Schwab
A. --that's your characterization.

Nemeth
Q. Well, you're saying here that when you arrived, his hands were behind his back, correct?

Schwab
A. No.

Kammer
A. I--can I see the beginning?

Schwab
A. Of--of the interview?

Kammer
A. Of the transcripts, yes.

Schwab
A. Okay, you know, we need to take a break 'cause I've got to go return that call. So when we take a break, have him review--

Nemeth
Q. All right. We'll be right back--

Schwab
A. (inaudible)--

Nemeth
Q. --actually to finish this up and then take a lunch break? Is that agreeable--

Schwab
A. Sure.

Nemeth
Q. --to you so we can dismiss him? All right, take a break. Time's 1211 hours. All right, we're back on the record with Deputy Kammer's interview.

Gjendem
Q. We're just back from a short break there. Deputy Kammer wanted to take a break and look over the transcript there that he had given on--think it was December 20, 1994? Did you get a chance to take a look at that?

Kammer
A. Yes, I did.

Gjendem
Q. And do you have any comment on that?

Kammer
A. As far as?

Gjendem
Q. What we were talking about, and that was when you were right in the module, the hands being behind the back.

Kammer
A. As far as what it says here on the transcript and--and the reference that you made to "already in the hands back," it was referenced to they were trying to get the hands back--putting his back--hands behind his back. 'Cause in--on page 13 of the transcripts, there was a question here where I started out

describing the position that they were in, so they could handcuff him. And they went into another question. And I was--

Schwab
A. Wait--and--on page 13, for the record, it states they were trying--from Deputy Kammer, "They were trying to get the hands back so they could handcuff him."

Gjendem
Q. But the hands were already behind his back.

Schwab
A. At what point in time?

Gjendem
Q. When you got in there? They were not his (inaudible)?

Kammer
A. No. They were getting his left arm out and his right arm was still underneath him.

Gjendem
Q. Does--does it say that here?

Schwab
A. That's what we believe it says, sergeant. We haven't had a chance to compare the transcript to the tape. So we don't know how accurate the transcript is as to the comment on page 14, but there's obviously words left out.

Nemeth
Q. Well I guess--where does it say on the worksheet--here's where I'm seeing the inaudibles on either of these two pages. Secondly--

Schwab
A. Let me--let me--

Nemeth
Q. Go ahead.

Schwab
A. --just state again, "They were trying to get the arms back so they could handcuff him." That's the ans--yeah, where it's--

Nemeth
Q. Okay. That's the answer on page 13 by Deputy Kammer.

Schwab
A. Right, by Deputy Kammer. Right. "They were trying to get the hands back." That doesn't say the hands were already back.

Nemeth
Q. And it doesn't say they were under him either. That--that was what Sergeant Gjendem's question was, where does it say that his arms were under him.

Schwab
A. What is he--

Nemeth
Q. It doesn't there.

Schwab
A. Well, okay.

Nemeth
Q. Is that--okay.

Schwab
A. You answered your own question.

Nemeth
Q. I guess what we're asking you is here on page 14, answer by Deputy Kammer.

Kammer
A. Right.

Schwab
A. Just state it again, Todd. They don't understand.

Nemeth
Q. Well we do understand. We understand what this says here, I mean, I could--

Schwab
A. --Okay--

Nemeth
Q. --Understand these words, I'm trying to get--

Schwab
Q. --Yeah, and I, and I said Sergeant, I asked my client, Todd, to state it again because I don't think you understood what he said, and he's entitled to state it again.

Kammer
A. Says, no I didn't, because by the time I got in there, I saw they were positioned. I can describe but by the time I got in there, they were already in the hands back. What was intended was that the hands were in the position of coming back to be handcuffed.

Nemeth
Q. Continuing with Deputy Kammer's interview under IAB Case No. 008383, Deputy Kammer, what we were asking you is, and what you just said a minute ago was, you're explaining your answer on Page, top of Page 14, and said, his hands--

Kammer
A. --Right--

Nemeth
Q. --The inmate's hands were in the process of coming back.

Kammer
A. Correct.

Nemeth
Q. Coming back to where?

Kammer
A. To his back.

Nemeth
Q. To the small of the inmate's back?

Kammer
A. I couldn't tell you.

Nemeth
Q. To his back?

Kammer
A. Yes.

Nemeth
Q. Okay. Now that is, as I understand it, that's different from being under his chest, correct?

Kammer
A. As far as he, the left hand was coming back and the right arm was still underneath.

Nemeth
Q. Okay.

Kammer
A. Okay?

Nemeth
Q. But it doesn't say that here. What it says is--

Schwab
A. --Okay, we don't know if that's--

Kammer
A. --But, that's--

Schwab
A. --Accurate, Sergeant.

Nemeth
Q. Well this is his statement. Are you--

Schwab
A. --No, we don't know if that's accurate.

Nemeth
Q. Oh, you don't know if the transcription is accurate?

Schwab
A. --No, we don't know if that's accurate.

Kammer
A. --Right--

Schwab
A. --That's correct.

Nemeth
Q. Okay. Okay, all right, I understand. But we are operating from the premise--

Kammer
A. --Right--

Nemeth
Q. --That this is correct, okay, at this point. If you later disprove that this is incorrect, than that's something else, but we're want to operate from the premise that this is correct, okay? And this is a verbatim transcription of your words. This is hands they, referring to the inmate's hands, were already in the hands back. Okay? And so what we're saying is they--

Schwab
A. --Why are you ignoring Page 13--

Nemeth
Q. --I'm not ignoring Page 13--

Kammer
A. --It says right here--

Schwab
A. --He says, they were trying to get the arms back so they could handcuff him. Why are you ignoring that?

Nemeth
Q. Well, because what, I'm not ignoring it, but what I'm--

Schwab
A. --Yes you are.

Nemeth
Q. --Hold on a second, what I'm relying on, is it says here, by the time I got there, which infers his initial arrival, they were positioned, I can describe, but by the time that I got in there, they were already in the hands back.

Schwab
A. That's not what this says on Page 13. It says, he was, he was holding the, he was holding the inmate's body down, I believe, and in the process he was trying to get his arm back because that's when we got in there. They were trying to get the arms back so they could handcuff him.

Nemeth
Q. Okay. All right.

Kammer
A. And that clarifies that.

Nemeth
Q. Okay. Well--

Schwab
A. --You can't just pick and choose your answers--

Nemeth
Q. --Well, you're absolutely right. The problem is, in the sequence of this interview, the answer you read preceded the answer I read.

Schwab
A. Exactly.

Nemeth
Q. Right.

Kammer
A. Right.

Schwab

A. Which, which tells you exactly what the position was when he got in there.

Nemeth
Q. Okay. Well, I, I di--I disagree with that because I believe--

Schwab
A. --Well, then you can write your investigation up how ever you want to, we can't control that--

Nemeth
Q. --All right. What we're--

Schwab
A. --This is ridiculous, this is unnecessarily--

Nemeth
Q. --Right--

Schwab
A. --Prolonging the interview--

Nemeth
Q. --Oh no, we're not trying to, stay cool--

Schwab
A. --We've got another two-to-three hour interview going on today which you scheduled back-to-back--

Nemeth
Q. --Well we, I did that for your convenience, we can schedule that another time--

Schwab
A. --That's not for my convenience--

Nemeth
Q. --Well, we can, we can work on that, if we need to--

Schwab
A. --This deputy is going to be off duty by the time we even get close to doing his interview--

Nemeth
Q. --Okay, we'll probably have to reschedule it then, I believe. Deputy Kammer, what we're talking about here is, you made this statement first to Sergeant Hamilton, and then he continued asking a question and you followed with the statement that I read at the top of Page 14. What we're trying to do is, they're two different statements, we can agree on that, correct?

Schwab
A. --No, we don't agree with that.

Nemeth
Q. Okay--

Schwab
A. --We do not agree with your interpretation.

Nemeth
Q. All right. When you first arrived there, what were the, when you first arrived in Module 4400, and the first time you laid eyes on the inmate and the struggle, what was the position of his hands?

Kammer
A. When I saw the struggle, they were attempting to get his left hand out and his right arm was under, tucked underneath him.

Nemeth
Q. Okay. You didn't say that when you were interviewed the first time, did you?

Schwab
A. We don't know, we haven't read through the transcript.

Nemeth
Q. Well, we're reading the transcript right now--

Schwab
A. --We're reading two pages of the transcript. That's all.

Nemeth
Q. Do you remember saying that the first time you were interviewed?

Kammer
A. I don't know.

Nemeth
Q. Okay. (clears throat) Moving on, I'd like to go back to Page 11.

Schwab
A. (inaudible)

Nemeth
Q. I believe a little while ago you mentioned that, you did not see who handcuffed the inmate. Is that correct?

Kammer

A. No, I didn't.

Nemeth
Q. No, you didn't what? You didn't see?

Kammer
A. I didn't see, no.

Nemeth
Q. Okay. If, I'd like to read this last part of Page 11 here. Yeah, because by the time, by the time we got in there, I believe it was, it was Deputy [redacted] that pulled out the handcuffs and finally handcuffed the guy, I think.

Kammer
A. I think.

Nemeth
Q. Because it was either him or Deputy Kluth, because, I think, no it wasn't Kluth, therefore, if it wasn't Kluth, it must have been [redacted] Is that correct?

Schwab
A. --That's what you're reading. Are, are you asking us to verify your reading of the transcript, which we don't know is accurate or not?

Nemeth
Q. Yes, that's just what I read, read there.

Schwab
A. --Okay, I didn't follow along so I can't verify if what you read was accurate.

Nemeth
Q. Okay. The transcript will speak for itself, anyway.

Schwab
A. Okay. I note for the record, that in the Summary of the ICIU Interview, it states, Deputy Kammer could not remember which deputy actually handcuffed the inmate, but he thought it was possibly Deputy [redacted]

Nemeth
Q. Okay.

Schwab
A. Do you have a question regarding his statement?

Nemeth
Q. Yes. The next sentence says, that it was either [redacted] or Kluth. And then you say, Deputy Kammer, then it says, no, it wasn't Kluth.

Kammer
A. Right.

Nemeth
Q. Therefore, it must be [redacted] Is that correct?

Schwab
A. What are you asking him is correct?

Nemeth
Q. Therefore, it must be--

Schwab
A. --No, I don't understand the question. That's not a question (laughs).

Nemeth
Q. It must be [redacted] who handcuffed the inmate. Is that correct?

Schwab
A. --Wait, are you asking him what he specifically recalls, as to who handcuffed the inmate?

Nemeth
Q. Yes.

Schwab
A. That's a fair question.

Nemeth
Q. Yes.

Schwab
A. What do you specifically recall as to who handcuffed the inmate?

Kammer
A. I, my, my whole thing was that it was a guess, I mean, I was thinking that it was [redacted] doing, because of his proximity, being on the left side and that was the, the first hand that got handcuffed. I, I assumed that [redacted] was the first one to handcuff him. As far as seeing the handcuffs go on, and who handcuffed the other hand, I have no idea. My, this whole thing was based on, on assumption, I think. You know. As far as being for sure--

Nemeth

Q.   --Did you tell--

Kammer
A.   --Couldn't say that--

Nemeth
Q.   --The investigators from ICIB that you had no idea who handcuffed him?

Kammer
A.   Yes, that's what I had thought. I mean, I told them that I thought it was Deputy [redacted] and that was based on the assumption of his proximity to--

Schwab
A.   --According to IAB, that's what he, or ICIU that's what he said--

Kammer
A.   --Yeah--

Schwab
A.   --Deputy Kammer could not remember which deputy actually handcuffed the inmate. Are you disputing the accuracy of the center?

Nemeth
Q.   No, but I'd, I--

Schwab
A.   --Okay, that's what this summary--

Nemeth
Q.   --I would appre, well, that's true--

Schwab
A.   --From ICIU says--

Nemeth
Q.   --Well, that's true--

Schwab
A.   --So evidently that's what he told them--

Nemeth
Q.   --Well, that's true, but you stopped before the conjunction in that sentence and it says, but he thought it was possibly--

Schwab

A. --He thought it was possibly Deputy [redacted]-

Nemeth
Q. --Deputy [redacted]

Schwab
A. I already previously read that--

Nemeth
Q. --Okay--

Schwab
A. --That's why I stopped.

Kammer
A. And that was based on my proximity of their location on the inmate.

Nemeth
Q. Okay. And you didn't say that, that was a, a guess on your part, correct?

Schwab
A. I think he did say that (inaudible)--

Kammer
. --Right here, I think. I believe it was, and I think because of the (inaudible)--

Nemeth
Q. --In the next sentence says what?

Schwab
A. Because it was either--

Kammer
A. Because it was either him or Deputy Kluth because, I think, no, it wasn't Kluth, I think, and it goes on, I think we were going to get, no it wasn't Kluth, Kluth was on the other side. Okay, from [redacted] okay, and then it goes from there.

Nemeth
Q. So if Kluth didn't do it, and you're very emphatic about that, if Kluth didn't do it--

Schwab
A. --Well, you know--

Nemeth
Q. --well it must've been [redacted]

Schwab
A. You're arguing with him.--

Nemeth
Q. --Is that correct?

Schwab
A. You are arguing with him.--

Nemeth
Q. No, we're not arguing.

Schwab
A. --All you can ask him--

Nemeth
Q. --Is that correct?--

Schwab
A. --is what his specific recollection is, Sergeant, is that what you're asking?

Nemeth
Q. Yes.

Schwab
Q. What his specific recollection is?

Nemeth
Q. Yes.

Schwab
A. Okay, state again, to these Sergeants who are so dull that they can't understand your answer.

Nemeth
Q. Oh, excuse me?

Schwab
A. --What--

Nemeth
Q. --Are you insulting me, Ms. Schwab?

Schwab
A. What do you specifically recall Todd as to who handcuffed the inmate. If you don't recall, that's all right. Don't make them change your answer just because they want you to change your response.

Kammer
A. I, I don't recall who handcuffed him. My assumptions were that Deputy [redacted] had put his handcuffs on.

Nemeth
Q. That was an assumption you made earlier?

Kammer
A. Purely an assumption, yes.

Nemeth
Q. Okay. Well that doesn't say that here but I assume--

Schwab
A. --I don't agree with that. That is exactly what that says. Is that he thinks, and he's trying to deduce who handcuffed him. Not what he observed.

Nemeth
Q. Well, Deputy Kammer, today when we asked you the question, you didn't make that assumption for us, though. Is that correct? You didn't say, I think it might been--

Schwab
A. --We--

Nemeth
Q. --I think it might have been--

Schwab
A. --We didn't understand that you wanted him to guess.

Nemeth
Q. No, I don't want him to guess--

Kammer
A. --I don't recall, I don't recall.

Nemeth
Q. --But I'm asking him what his answer was, he said, flat out you don't recall. You don't know who, who handcuffed him today, when I asked you, correct?

Schwab
A. That's all right, it's been a year after the incident.

Nemeth
Q. No, what I'm asking--

Kammer
A. --I, I don't recall. I don't recall.

Nemeth
Q. Okay. A little while ago, now we determined this, this incident happened on October 27th, during the early morning hours, right?

Kammer
A. Okay.

Nemeth
Q. And I think you said you got off that day, then you were off on RDO's the next two days, do you remember?

Kammer
A. --I, I think so. I, I think so.

Nemeth
Q. You think so now?

Kammer
A. I--

Schwab
A. See the schedule, so we can look at it, so he doesn't have to guess.

Kammer
A. No, I don't remember. I mean that was--

Nemeth
Q. --You don't remember now?--

Kammer
A. --that was over a year ago.

Nemeth
Q. For the record, we're showing Deputy Kammer a copy of his 1994 time record. It shows October 27th, you had a work date, correct?

Kammer
A. Right.

Nemeth
Q. And October 28th is what?

Kammer
A. The following day.

Nemeth
Q. Is, yes.

Kammer
A. That would have been Friday.

Nemeth
Q. Another work day?

Kammer
A. Or Saturday.

Nemeth
Q. Another work day?

Kammer
A. Yes.

Nemeth
Q. The 29th.

Kammer
A. Yes.

Nemeth
Q. And the 30th?

Kammer
A. Yes.

Nemeth
Q. And it looks like you may have even worked a double shift that day, is that correct?

Kammer
A. I don't remember.

Nemeth
Q. And then you went on RDO.

Kammer
A. Yes.

Nemeth
Q. On October 31st, which would have been the following--

Kammer
A. --Right.

Nemeth
Q. So you worked the next three days.

Kammer
A. Okay.

Nemeth
Q. And then you went on RDO.

Kammer
A. Okay.

Nemeth
Q. Okay. And that's contrary to what you thought had actually occurred, is that correct?

Schwab
A. What, what's your point Sergeant? What, that he can't remember exactly what his schedule was a year afterward?

Nemeth
Q. No, I'm just trying to set the record straight, what he his do, what his RDO's were.

Schwab
A. Well you've got the record right there.

Gjendem
Q. We're trying to improve his memory, that's all.

Nemeth
Q. Yeah.

Schwab
A. What, that his memory isn't exact after a year after the incident?

Nemeth
Q. Well maybe he'll remember something that he worked these days, and he was off around Halloween and the day of Halloween, I don't know. Did that jog your memory and make you remember anything different?

Kammer
A. No.

Nemeth
Q. Did you ever tell any supervisor that you went down to 4400?

Kammer
A. No.

Nemeth
Q. Did you tell, ever tell a Senior?

Kammer
A. No. We didn't have a Senior on our floor.

Nemeth
Q. On your floor, 9,000?

Kammer
A. Right, it's just a Sergeant.

Nemeth
Q. Okay, did you ever tell a supervisor down on 4,000?

Kammer
A. No.

Nemeth
Q. A Senior down on 4,000?

Kammer
A. No.

Nemeth
Q. That you went down to 4400.

Kammer
A. No I didn't.

Nemeth
Q. Okay. Did you ever see a supervisor come to 4400 while you were there?

Kammer
A. No.

Nemeth
Q. Did you ever see a Senior enter 4400 while you were there?

Kammer
A. Not that I can recall.

Nemeth
Q. Did you ever see any supervisor in the hallway that evening after?

Kammer
A. Not that I can recall.

Nemeth
Q. Okay, just one last question. Do you know how is it that you came to be identified as having been at this module for this event?

Kammer
A. I'm assuming that we got, we were placed there possibly by the, whoever was working the control booth and directing us towards 4400.

Nemeth
Q. Okay. Okay.

Schwab
A. And you also personally talked to one of the deputies involved that evening and asked if you (inaudible)--

Kammer
A. --Yeah. And Dep--and talked to Deputy Sloan.

Nemeth
Q. Okay, Deputy Sloan, is he a Senior?

Kammer
A. No.

Nemeth
Q. Is he a supervisor of any kind?

Kammer
A. No.

Nemeth
Q. He's not obviously not a Sergeant because he's Deputy Sloan, right?

Kammer
A. Correct.

Nemeth
Q. You understand the policy requires you to make a notification to a Sergeant or above, correct?

Schwab
A. Now you're badgering Deputy Kammer--

Nemeth
Q. --No I'm not--

Schwab
A. --we have gone over and over and over this.

Nemeth
Q. Well you're making a point that he notified somebody. He previously stated--

Schwab
A. --I am saying that he made someone aware of his presence there. And that's what your question was directed at previously.

Nemeth
Q. Okay. Did you ever make any supervisor on the Sheriff's Department, of the rank of Sergeant or above, at any time, ever, even after you learned that the four deputies that were mainly involved in this, Kluth, Sloan, [redacted] and [redacted] after you learned they were relieved, did you ever notify a supervisor of your involvement?

Kammer
A. No.

Nemeth
Q. Okay. All right, that's all I have. Is there anything you want to add at this point, Deputy Kammer, that you think might be important or relevant to getting the full picture on this event?

Kammer
A. No.

Nemeth
Q. Okay. Miss Schwab, anything you want to add?

Schwab
A. No, not unless you want to show us your investigative file, maybe we can make a comment upon it.

Nemeth
Q. Okay. Not at this point we can't. Ultimately you may be able to see it. All right, we'll conclude. The time is 1245 hours.

END OF INTERVIEW

ADMINISTRATIVE RIGHTS/SWORN SUBJECTS

I am **Sergeant John Nemeth** and this is **Sergeant Ernie Gjendem** of the Internal Affairs Bureau, which is commanded by Captain Norman L. Smith.

You are about to be questioned as part of an official Los Angeles County Sheriff's Department administrative investigation.

Do you have a Policy and Ethics Chapter of the Manual of Policy and Procedures? Yes [√] No [ ]
Are you familiar with its contents? Yes [√] No [ ]

You are specifically reminded that Policy and Ethics Section 3-01/040.70 requires that you make truthful statements and Section 3 01/040.75 requires that you make full and complete statements.

This investigation concerns: (Explain allegations /basic reason for investigation.) **Failure to report the use of force and/or failure to report the witnessing of force.**

If this were a criminal investigation any statements you made could be used against you in a court of law. Since this is an administrative investigation, neither your statements nor any information or evidence which is gained by such statements can be used against you in any subsequent criminal proceeding. However, these statements may be used against you in subsequent administrative actions.

You are being ordered to answer questions specifically related to the performance of your official duties and/or your conduct as related to your employment with the Department.

You have the right to remain silent, and you have the right to the presence and assistance of counsel. You are hereby notified that although you have the right to remain silent, failure to answer questions directly related to this administrative investigation may result in your discharge or other punitive action.

You have the right to have a representative of your choice, who is not involved in this investigation, present with you during your interviews. You may tape record this interview if you wish. **You are being ordered not to discuss the facts of this case or any of the issues discussed during your interview with anyone other than your designated representative or attorney in this matter.**

Initials TK

The above admonition has been explained to me and I understand its contents.

DATE: **November 15, 1995** FILE NO. **IAB 008383**

	(Signature)	(Print)
SUBJECT:	Todd M Kamme	Todd M. KAMMER [redacted]
INVESTIGATOR:	John Nemeth	JOHN A. NEMETH 7

DEP. DAVID KLUTH
I.A.B. INTERVIEW 12-14-95

SUBJECT INTERVIEW

CASE NUMBER IAB 008383

DAVID KLUTH

Nemeth
Q. Today's date is Thursday, December 14, 1995. The time is 1025 hours. I'm Sergeant John Nemeth of Sheriff's Internal Affairs. Present with me is Sergeant Ernie Gjendem, also of Internal Affairs, and we're at the Internal Affairs Bureau Interview room, speaking with subject, Deputy David Kluth regarding IAB case 008383. Deputy Kluth, prior going to tape I provided you with a copy of your Administrative Rights as a Sworn Subject in this case, which I see you've indicated yes to the questions, affixed your initials and signed your name to the form. Is there any questions you have about the form, and do you understand your rights as a witness?

Kluth
A. Yes.

Nemeth
Q. Okay. You have any questions about the form or anything?

Schwab
A. Is he a witness only?

Nemeth
Q. I'm sorry, subject, do you understand your rights as a subject in this case?

Kluth
A. Yes.

Nemeth
Q. Which is the form you signed. You have any questions about your rights as a subject in this case?

Kluth
A. Not right now, no.

Nemeth
Q. Okay, and you've exercised your right to have a representative present, and I see you have Miss Helen Schwab with you, today, as your representative, and for the record, for voice identification, I'm gonna ask Miss Schwab to state her name, and spell it for the record, please.

Schwab

A. Helen Schwab, S-C-H-W-A-B.

Nemeth
Q. Thank you, and also present is Mr. Mitchell Kander, another attorney, Mr. Kander, would you state and spell your last name for the record, please.

Kander
A. Yes, my name is Mitchell Kander, K-A-N-D-E-R, and I'm an attorney with Green and Shinee.

Nemeth
Q. Okay, thank you. Okay, Deputy Kluth, what was your assignment on October 27, 1995?

Kluth
A. Oh, '95?

Nemeth
Q. I'm sorry, '94.

Kluth
A. I was module officer of module 4400.

Nemeth
Q. 4400?

Kluth
A. Yes.

Nemeth
Q. Okay, what shift was that?

Kluth
A. Early morning shift.

Nemeth
Q. Alright, is that, was that your regular assignment?

Kluth
A. Yes.

Nemeth
Q. How long had you held that assignment?

Kluth
A. Approximately three months.

Nemeth

Q. Okay, how long had you been assigned to Men's Central jail on October 27, '94?

Kluth
A. Approximately three years.

Nemeth
Q. Three years, okay, and did something happen that night that was unusual?

Kluth
A. Yes, I was, I was attacked by a inmate [redacted].

Nemeth
Q. Can you describe for me the events leading up to and including the incident with [redacted].

Kluth
A. I was starting to put an inmate away in his cell on the Baker row, and when I opened up the cell blocks, inmate [redacted] exited his cell, and refused to go back into, inside his cell, so I ordered him several times over the P.A. system, two or three times, to go back into his cell, which he refused to do. So, I locked him on Baker row, then I was ordering him to lock it down in the shower, which he refused to do, and he was hiding up against the wall of the control booth, 'cause the control booth is pretty tall, right there and if you get right next to the wall, you can't really see, who's there, so I'm looking out the window, and you, he won't go in there, and as I'm trying to get him to lock it down at one of the places, Deputy Sloan came in, see if I wanted to go to chow, and I said, well, wait, a prowler or something's gonna relieve, I didn't know when I was going, going to be relieved for chow. I said, but, let me, let me talk to this inmate and see what his problem is, why he won't lock it down. And, as I was doing that the phone was ringing, so Deputy Sloan came into the module and walked, was walking down to answer the phone, so I exited the control booth, went over to Baker row, and called the inmate up the stairs, comes up the stairs, I told him to get out into the sally port, and walk over and stand up facing the wall. Once again, he walked over to the wall, but he didn't, he didn't face the wall, he just kind of was standing there, kind of at an angle towards me, and when he, I told him to get up against the wall, again to face it, and he was just kind of, that's when I noticed he had this like crazed look in his eye. I said, well, I need to get him up against the wall, so I reached over to, to turn him, to have him face the wall, and that's when he jumped at me, and grabbed me around the neck, and started choking me.

Nemeth
Q. Okay, what happened next?

Kluth
A. Once he grabbed a hold of me, we started wrestling around inside the sally port. I'm trying to get him off of me, and he's swinging at me, trying to hit me, so I'm blocking his swings, trying to move his arm around to my neck, and--

Nemeth
Q. What you did, for the record, is you gestured with your, your left hand, in kind of a blocking motion in front of your body, and with your right hand, you made like a pulling motion from your neck down, is that an accurate description of what you just did?

Kluth
A. Yes.

Nemeth
Q. And is that what you were doing, did you kind of just demonstrate for us what you were doing that night--

Kluth
A. Yes.

Nemeth
Q. ---in the module, okay, go ahead.

Kluth
A. So, as I'm trying to pull his arm away from my neck, and he's swinging at me, and I'm blocking his swings. We're also kind of bouncing around inside the sally port, 'case I'm trying to go one way, and he's trying to go another one, so we're bouncing up against the bars, and as you looked in the module from the door that goes into the module, we're kind of on the left hand side, that's where it started, started to bounce around there. By the time we got over to the right hand side of the sally port, I kind of got free from him, and started to back away, and he jumped me, jumped at me again and grabbed me, and started choking me out again, and we did the same thing, we're bouncing off the bars and stuff, and at this point, I'm like, well, I'm losing the fight, now I can't get this guy off of me, I can't breathe, 'cause he's choking me, so I decided to take him to the floor. So, there, I'm not winning this standing up, I'd better try to take him to the floor and see if I can do better, and just as I was taking him to the floor, some other deputies came into the module, and we were all down there, trying to get him off me, 'cause he still had a hold of (inaudible), and I get away from his arm, then I, I grabbed his left arm, and moved that towards his back. It took a little bit to get his arm back behind his back, that bad, and then, shortly thereafter, we got his right hand back, and got him handcuffed, and we hobbled him.

Nemeth
Q. Okay. And, what happened after the inmate's hobbled?

Kluth
A. I'm sorry, what was that?

Schwab
A. What happened to the (inaudible).

Nemeth
Q. What happened after the inmate was hobbled?

Kluth
A. We got him hobbled, and I backed away, I was kind of out of breath, and I looked down, and I saw that he was laying on his stomach, and he needed to be turned on his side, so I went over, reached down and grabbed him, kind of set him up on his side, and then we called for a nurse and the sergeant all that respond to the module.

Nemeth
Q. Okay, and at some point, did you report what had happened to a supervisor?

Kluth
A. Yes.

Nemeth
Q. Describe that for me.

Kluth
A. Well, the senior and the sergeant came up there and ran it by them, told them what happened, and then we were told to go report it to the watch commander, who was Sergeant Duncan. He was in the gym, so we went up to the gym, told him what happened, and that's pretty much it. We had to wait and find out if Internal Affairs was gonna roll to, to write anything on the, we were told to hold off on writing our reports until Internal Affairs was notified, and see if they were gonna come out.

Nemeth
Q. Okay, who told you that?

Kluth
A. Sergeant Duncan.

Nemeth
Q. You mentioned a senior and a sergeant, who are they?

Kluth
A. Sergeant Mosely, and it was Senior Jackson, Senior Jackson.

Nemeth
Q. Did you tell them about the force incident?

Kluth
A. I believe so.

Nemeth
Q. Did you tell both of them, or one or the other, or--

Kluth
A. Well, I know I told Sergeant Mosely, I'm not sure if I told Jackson, if he was there when I was telling Mosely.

Nemeth
Q. Okay, so Jackson and Mosely responded to module 4400?

Kluth
A. Yes.

Nemeth
Q. Is that where you told Sergeant Mosely about what had happened, or did you tell him somewhere else?

Kluth
A. I don't know, I don't remember when I told him.

Nemeth
Q. Okay, did you prepare a crime report in this incident?

Kluth
A. Yes, I did.

Nemeth
Q. Okay, and have you had an opportunity to review that, I see there's a copy of it in front of you, which I had earlier provided to your representative.

Kluth
A. Yes, I did.

Nemeth
Q. Okay, alright, did you get an opportunity to, to look over the other supplemental reports that were submitted by the other deputies involved in the event?

Kluth
A. Yes, I looked them over.

Nemeth
Q. Okay, and the, the other documents that are attached to that packet there, the memorandum about the force completed by Sergeant Mosely, and the memorandums by Sergeant Duncan, two of them?

Kluth
A. Yes.

Nemeth
Q. Okay. Okay, alright. Do you know what time this incident started or do you remember what time it started?

Kluth
A. I believe it was around 12:30.

Nemeth
Q. 12:30 a.m.?

Kluth
A. Yes.

Nemeth
Q. On the 27th? Thirty minutes into the 27th, correct?

Kluth
A. Yes.

Nemeth
Q. Okay, I guess what you said started the whole thing was you were trying to put another inmate away into a cell, on Baker row, is that correct?

Kluth
A. Yes.

Nemeth
Q. Do you know who that inmate was?

Kluth
A. I have no idea.

Nemeth
Q. Okay, and had he just been transferred in, or, why was he out of his cell, this other inmate?

Kluth
A. I have no idea.

Nemeth
Q. Don't remember now.

Kluth
A. No.

Nemeth
Q. Okay.

Kluth
A. It could have been one, it could have been several inmates I was putting away, I don't remember.

Nemeth
Q. Okay, and is it true that movement occurs during night, people are brought in, transferred into the module, and some are transferred out, too.

Kluth
A. Yes.

Nemeth
Q. Okay. So, could it have been that you were transferring somebody out of the cell to go to another custody facility?

Kluth
A. No, I was putting somebody away.

Nemeth
Q. Okay, you remember that for sure.

Kluth
A. Yes.

Nemeth
Q. Okay, alright, and when you opened the gate to accomplish this, that's when inmate [redacted] came out, is that what you said earlier?

Kluth
A. Yes.

Nemeth
Q. And about what time did this start, what time did that part happen?

Kluth
A. It probably was about, I'd say 12:15, you know, an estimate.

Nemeth
Q. Approximately 15 minutes before the--

Kluth
A. Approximately--

Nemeth
Q. --incident started?

Kluth
A. --yes.

Nemeth
Q. Okay. How do you know it was 12:30, did you look at your watch, or is there some, you know time gauge, that makes you think it was 12:30?

Kluth
A. No, I, I don't know how I knew what the time was, but I know it was 12:30, 'cause I read my report.

Nemeth
Q. And, that's what it says in your report, doesn't it, you just don't remember now, how you fixed that time, but you know that you determined that it was 12:30 when you wrote the report?

Kluth
A. Yes.

Nemeth
Q. Okay, okay. Now, were you, how many times did you order this inmate, [redacted], to get back into the cell after he'd got out at about 15 minutes before.

Kluth
A. Three or four times.

Nemeth
Q. And he not, he did not comply any of the times?

Kluth
A. No.

Nemeth
Q. Did he do anything? I think you said he was hiding, or attempting to hide against the wall, or something like that?

Kluth
A. The first, soon as he came out, he was walking around, on the rail, he was going up to other cells, which is a common occurrence. And, it happens all the time, people pass things around, and whether it's food items, or rolled notes, or whatever. After I had ordered him back in the cell, which he refused, and I shut the gate, when I was attempting to put him into the, into the shower by ordering him to go in the shower, that's when he walked up towards the shower, and then moved up to the booth. To give the impression to me that he was, that he had gone in there.

Nemeth
Q. Okay, is that the B row shower?

Kluth
A. Yes, it is.

Nemeth
Q. Okay, do you know what cell this [redacted] came out of?

Kluth
A. No, I do not.

Nemeth
Q. Okay. If I said Baker four, or fourth cell back, does that jog your memory?

Kluth
A. Yes.

Nemeth
Q. Is that, is that correct, is it Baker Four?

Kluth
A. That part, I remember seeing that in my report, so that would be--

Schwab
A. (Inaudible).

Kluth
A. It's just 'cause I put it in the report, I don't actually remember what cell I came out of.

Nemeth
Q. Okay, did you put that in your report? Okay, now you remember it though, correct?

Kluth
A. No.

Nemeth
Q. No, you don't remember it?

Kluth
A. I, I don't remember what cell, I remember reading in my report as Baker four, so--

Nemeth
Q. Is your report accurate?

Kluth
A. Yes.

Nemeth
Q. And when you try to write a report, you try to write an accurate report, don't you?

Kluth
A. Yes.

Nemeth
Q. Alright, so, he refuses then, to go in the shower as you told him to, on Baker row, right, and then hides, takes up the hiding position?

Kluth
A. That's correct.

Nemeth
Q. But you knew he was hiding, or you knew he didn't go in that shower, is that right?

Kluth
A. Well, I didn't know that he went into the shower or not, until I looked down through the window, and I could barely see him standing there, then I knew he had not gone into the shower.

Nemeth
Q. Alright, so how many times did this guy refuse to do what you wanted him to do?

Kluth
A. About three or four times, he wouldn't go into his cell, and probably three or four times, ordering him to go in the shower, he didn't, he didn't comply to that either.

Nemeth
Q. Okay, so between six and eight times, you've ordered this inmate to do something, and he's not complied, is that accurate statement?

Kluth
A. That's accurate, pretty accurate.

Nemeth
Q. Okay. Was there any--

Kluth
A. (Coughs) excuse me.

Nemeth
Q. --okay, was there anybody else in that shower, that Baker row shower?

Kluth
A. There was another inmate in there, yes.

Nemeth
Q. Do you know who that was?

Kluth
A. No, I do not.

Nemeth
Q. Do you rem, can you give me a physical description of that inmate?

Kluth
A. No.

Nemeth
Q. I mean, we obviously know it's a male, 'cause it's a men's jail, but was it white, black, Hispanic, or can you even put a race on that person?

Kluth
A. No, I can't.

Nemeth
Q. Okay.

Kluth
A. I don't remember.

Nemeth
Q. Alright. What was the other inmate who was in the shower, why was he in the shower?

Kluth
A. Because he did, when I let [redacted] at one, I went to put the inmate in the cell, and [redacted] came out, this other inmate also came out of his cell, the row was, I'm not sure what cell it was that he came out of, but I had two of them on the row, and the one that was in the shower is the one, I did the same thing with him as I was trying to do with [redacted], he went into the shower.

Nemeth
Q. Alright, did this guy who's in the shower, who I think what we were describing is he also came out unauthorized, out of the cell, when you opened the cell for some other reason, is that right?

Kluth
A. Yes.

Nemeth
Q. And, and they call that roaming at the jail, correct?

Kluth
A. Yes.

Nemeth
Q. Being out of your assigned dormitory, or cell area, correct?

Kluth
A. Yes.

Nemeth
Q. Alright. This inmate who's in the shower, all you know is he's a male, you don't remember what race he is, right?

Kluth
A. No.

Nemeth
Q. Okay. Had he come out of the same cell as, as [redacted] did?

Kluth
A. I don't know.

Nemeth
Q. Don't remember?

Kluth
A. No.

Nemeth
Q. Okay. So, he went in the shower, you ordered him to go in the shower, is that correct?

Kluth
A. Yes.

Nemeth
Q. And he complied.

Kluth
A. Yes.

Nemeth
Q. Okay, and you wanted to do the same thing with [redacted], and he didn't comply.

Kluth
A. That's correct.

Nemeth
Q. Okay. What's the purpose of putting that other inmate and, and [redacted] in the shower?

Kluth
A. That's the way I do things that, they weren't locking down in the shower, then I lock them down somewhere else, till I can get a prowler or somebody to talk to them to find out why they weren't locking them down, so I'm locking down the shower, try to lock them down somewhere.

Nemeth
Q. Okay. Now, when this is occurring, is the row gate to the Baker row, where inmate [redacted] is out, now he's out of his cell, but he's on Baker row, correct?

Kluth
A. Yes.

Nemeth
Q. Okay, is the gate to Baker row shut and locked?

Kluth
A. I don't remember.

Nemeth
Q. Okay, the reason I ask is in your report, it says at the, at the bottom of page two, it says, after several attempts, this is the last sentence on page two, after several attempts of ordering him, and you mean [redacted] when you say him, correct--

Kluth
A. Yes.

Nemeth
Q. --back inside his cell, I closed his cell, locking him on B row. So, when you say lock him on B row, does that mean that he's locked out of his cell, there's nothing for him to get into except the Baker row freeway? Is that what locking him on B row means?

Kluth
A. Yes.

Nemeth
Q. Okay, does that mean the Baker row gate is locked so he can't escape out of the module, or can't exit the Baker row?

Kluth
A. Basically, to me, it meant I locked him out of, out of his cell, onto the row.

Nemeth
Q. Okay, well at some point you went to get [redacted] off of Baker, row, correct?

Kluth
A. Yes.

Nemeth
Q. How did you accomplish that? Did you unlock the gate?

Kluth
A. I don't remember.

Nemeth
Q. Or just pull on the gate?

Kluth
A. I don't remember.

Nemeth
Q. Okay, is there a practice at Central jail of, is there a directive or anything to keep those row gates closed and locked?

Kluth
A. Yes.

Nemeth
Q. Okay, and do you follow that directive?

Kluth
A. Yes.

Nemeth
Q. Okay, so, is it your best memory, as we sit here today, that that Baker row gate was locked as the directive dictates it should be?

Kluth
A. I, I, I don't remember if it was locked or not.

Nemeth
Q. Okay. Well, did [redacted] come off of the row, before you went out there and told him to?

Kluth
A. No.

Nemeth
Q. Okay. Alright, so [redacted] is locked out of his cell, all the gates are closed, and now the shower, you've closed that too, correct, 'cause he wouldn't go in?

Kluth
A. I don't remember if I locked it or not.

Nemeth
Q. Okay.

Kluth
A. It was a long time ago, I don't remember.

Nemeth
Q. Alright, when you went out to, let's see, Sloan came in, correct, to ask you about going to dinner, or something like that?

Kluth
A. Yes.

Nemeth
Q. Okay, and did he just come in on his own, just kind of pop in, or did you call him, or did he call you ahead of time, or anything like that?

Kluth
A. He just, he just came in.

Nemeth
Q. Okay, and did you have a kind of a practice of going to dinner with Sloan 'cause you were a friend?

Kluth
A. Yes.

Nemeth
Q. Okay, and Sloan comes in and, I think what you said earlier is you said, because Sloan was there, you asked Sloan to cover the module for you, so you could go out and speak to inmate [redacted], is that correct?

Kluth
A. Yes.

Nemeth
Q. Okay, and is there a reason you couldn't do it when Sloan wasn't there?

Kluth
A. Yeah, I couldn't go out into the, the module by myself because of the un-security.

Nemeth
Q. Alright, is that a security practice, or security policy at Central Jail, that the module officer's not leave their module security booth area without being relieved?

Kluth
A. Yes.

Nemeth
Q. Okay, that's at all times, correct?

Kluth
A. Yes.

Nemeth
Q. Okay, so the fact that Sloan had came in, you took that opportunity to say, "cover the booth for me while I go out and find out what's going on with inmate [redacted]," is that right?

Kluth
A. Yes.

Nemeth
Q. Alright, and when you, when you stepped out of the booth, what was your intent when you said, to speak to inmate [redacted]? What was, what was that?

Kluth
A. Why was I going in to talk to him, I was going to talk to him to find out why he wasn't locking it down, near his cell.

Nemeth
Q. Okay. And, when you stepped out of the booth to talk to him, where was he at?

Kluth
A. He was still by the wall of the control booth.

Nemeth
Q. Did he look like he was hiding from you at that point?

Kluth
A. Yes.

Nemeth
Q. Okay. Did he have anything in his hand, any brooms or anything like that?

Kluth
A. Not that I remember.

Nemeth
Q. Okay, would he have had access to a broom out there on that Baker row?

Kluth
A. I don't believe so.

Nemeth
Q. Okay. So, you come out and see [redacted] standing along the concrete in what you say he's attempting to hide from you?

Kluth
A. Yes.

Nemeth
Q. Okay, before we get too much farther, let me just hand the indicate here. What we have here is a schematic that's not drawn to scale, but it is a representation of module 4400. What I'd like you to do is take a look at it, David, and tell me if, in your three months being assigned to module 4400, if this is an accurate representation. The, the bottom of the page here would reflect the 4000 hallway, this would be the one gate entry here, this would be the deputies' booth entry door, Baker row, Denver row, Able row, Charley row, laundry room, mop closet, the shower area, Baker, Denver, with Denver being on top, Able, Charley, Charley being on top. Does that look accurate?

Kluth
A. Yeah, fairly accurate, yeah.

Nemeth
Q. Okay, why don't you draw, well do you have a pen or anything?

Kluth
A. Yes.

Nemeth
Q. Okay, why don't you draw a little circle and put a W in it wherever you saw [redacted] on this Baker row.

Schwab
A. Well, at what time?

Kluth
A. Yeah, at what time?

Nemeth
Q. When you first, when you first stepped out of the booth. When you first stepped out of the booth to address him?

Kluth
A. Oh, he was approximately in this area.

Nemeth
Q. Okay. Was his back up against the concrete there?

Kluth
A. Don't remember.

Nemeth
Q. Okay, he wasn't hiding behind this little portion where the booth kind of flares out, then was he?

Kluth
A. When I looked from the booth, before I went out, he was behind this little angle here.

Nemeth
Q. Okay, why don't you draw a W, put a one there, and put a two in that one, 'cause show me where you're, yeah. So, this is where you first saw him, when you realized that he didn't go into the shower as you instructed him, right?

Kluth
A. Yes.

Nemeth
Q. At point W, one here?

Kluth
A. Yes.

Nemeth
Q. And then you, Sloan came in, and you said I need to talk to this guy, and you went out, and you looked down Baker row, then you saw him where you indicated a circle with W two?

Kluth
A. Approximately that's where he was, yes.

Nemeth
Q. Okay, and what did you do then when you saw him there?

Kluth
A. I called him up off the row.

Nemeth
Q. Okay, did you open the gate at that point to call him off the row, or what?

Kluth
A. I don't remember.

Nemeth
Q. How did the gate open?

Kluth
A. I don't remember.

Nemeth
Q. Did he just push it open and come out to talk to you, or did Sloan hit the electronic release to open it, or did you key it open, or what happened?

Kluth
A. I don't remember how the gate was opened, it wasn't, it wasn't buzzed open from the inside. It was, when I opened the gate, 'cause I remember holding onto the gate, as I called him off.

Nemeth
Q. Okay, is there a towel or anything tied around the gate to defeat the locking mechanism?

Kluth
A. No.

Nemeth
Q. Okay, is there any reason, was that gate malfunctioning at all during the shift, or it wouldn't lock?

Kluth
A. Not that I know of.

Nemeth
Q. Okay, is there any reason, as you sit here today, to lead you to believe that the gate was not locked when you went out there?

Kluth
A. No.

Nemeth
Q. Okay, but you're not aware of anything that the gate was malfunctioning so the normal practice is to leave the gates locked and secured, correct?

Kluth
A. Yes.

Nemeth
Q. Okay, and you don't remember exactly if you keyed it, but you said you, you do remember that it was not buzzed open from inside the 4400 module, deputies' control area, correct?

Kluth
A. That's correct.

Nemeth
Q. Okay, so you don't remember, was, if you keyed it open, though, either, is that right?

Kluth
A. I don't remember. I know I, unless I had a trusty going down the row to do something, the gates were locked. I don't remember that gate being locked or not locked. I don't remember keying it, I, I remember pulling the gate open. I don't know how it got open.

Nemeth
Q. What, I'm just curious, what, what would the effect of the trusty, even if you had a trusty doing something, would that alter the locking mechanism of the gate, or some way, not have the gate lock if the trusty was doing something?

Kluth
A. No.

Nemeth
Q. Okay.

Kluth
A. Unless he was just running down to do something and running off, leave the gate open, as long as the other cells were shut.

Nemeth
Q. Okay, how--

Kluth
A. Wouldn't let them in, if there were, you know.

Nemeth
Q. --okay, how does, how would the gate be left open by a trusty? They'd prop it open some way, or, tie a towel on it, or--

Schwab
A. Well, no, you want him to spec, he's telling you he doesn't recall--

Nemeth
Q. Well, what he--

Schwab
A. --how the gate got open.

Nemeth
Q. Right. Well, what he did just say is, it's possible they had a trusty doing some duty there, and the trusty may have, somehow, left the gate open, what I'm trying to find out is how the trustys do that.

Schwab
A. He didn't say that that would change anything.

Nemeth
Q. Well, you said a minute ago, it's locked unless you had a trusty doing something, correct?

Schwab
A. I don't think that's what he said.

Kluth
A. No, that's not what I said.

Nemeth
Q. Okay, it's not locked. Please, please straighten me out.

Schwab
A. No, he didn't say it wasn't locked. He said he doesn't know, Sergeant.

Nemeth
Q. Okay, let me ask you this--

Schwab
A. Badgering him isn't gonna change that.

Nemeth
Q. Alright, Deputy Kluth, I'm not trying to badger you, I'm just trying to get what happened out, your best memory out, okay. What would change if a trusty was doing something that would change the, the condition of this gate, whether it was locked or unlocked or how it was propped or whatever, is there a way the trustys would prop the gate so that it wouldn't lock, is that what you were saying?

Kluth
A. No, there's nothing that would, if a trusty was down the row, there's nothing that would change whether the gate were locked or not locked.

Nemeth
Q. Okay, so the trusty's still down the row, the gate still closes behind him and locks, is that correct?

Kluth
A. Yes.

Nemeth
Q. Okay. Alright, so as you sit here today, there's nothing to you that indicates that that gate was in any condition except locked, like it's supposed to be, is that right?

Kluth
A. There's nothing that indicates that it wasn't locked, no.

Nemeth
Q. You have no specific memory of the thing being open, propped, or in any condition except locked, is that right?

Kluth
A. I don't remember the condition of the gate at all.

Nemeth
Q. Okay, so when you call [redacted] up, you see him here at point W two, and what does, what does [redacted] do, does he follow your instructions now?

Kluth
A. Yes.

Nemeth
Q. Okay, and what, what does he do, come up the stairs?

Kluth
A. Comes up the stairs, he exits Baker row--

Nemeth
Q. Were you holding the gate for him, or did you allow him to push the gate open, or how did that happen, how did he exit Baker row?

Kluth
A. I held the gate open.

Nemeth
Q. And let him pass in front of you, then, is that right?

Kluth
A. Yes.

Nemeth
Q. Did you direct him to go anywhere when you did that?

Kluth
A. Yes, I did.

Nemeth
Q. Where did you direct him to go?

Kluth
A. Back to, over face the wall in front of Able and Charley row.

Nemeth
Q. Okay, why don't you, with your pen, position yourself how you're holding the gate, and then draw the dashed line how [redacted] goes and wherever you directed him to go, and then draw a circle with a W three, and at where he ultimately positions himself.

Kluth
A. Now, you want a circle where I was?

Nemeth
Q. Yes, a circle with a K in it for where you were holding the gate, or whatever you said, oops, hang on. Oh, well you can draw, I guess, but we're off tape.

Kluth
A. Okay, this is approximately, I don't know--

Nemeth
Q. Sure.

Kluth
A. --I know I was by the gate--

Nemeth
Q. Okay.

Kluth
A. --okay, so I would have been somewhere in this area--

Nemeth
Q. Holding the gate?

Kluth
A. Yes.

Nemeth
Q. Okay.

Kluth
A. You wanted a dash line where he walked?

Nemeth
Q. Yeah, that's fine, yeah, how he walked and then draw a circle with a W three where he ultimately positioned himself, and that's [redacted].

Kluth
A. He pretty much walked as, you know, directly over there.

Nemeth
Q. Okay.

Kluth
A. It was somewhere in this area, on that wall.

Nemeth
Q. Okay, and when you say in that wall, you're referring to what, what is the exterior wall of the laundry room, adjacent, perpendicular to the Able Charley row shower, is that correct?

Kluth
A. Yes.

Nemeth
Q. Okay, and that's where you told him to go?

Kluth
A. Yes.

Nemeth
Q. Okay, and how did [redacted] position himself over there?

Kluth
A. Well, when he exited Baker row, I told him to go over and face the wall--

Nemeth
Q. Right.

Kluth
A. --over here, pointing, I was pointing towards this wall--

Nemeth
Q. Okay,

Kluth
A. --and, that's all one wall right there, 'cause he's in (tape cuts off)--

Nemeth
Q. Okay, go ahead, you said you walked pretty much straight over.

Kluth
A. He walked pretty much straight over to the, to the wall, but when he got over there, I had instructed him to face the wall once he got over there, but he was standing at an angle from the wall, looking at me, and I again told him to face the wall.

Nemeth
Q. Okay, to make that a little clearer, why don't you point an arrow off the circle W three, to show which way he was angled, and, and the arrow will indicate which way he was facing, or whatever. Was he facing, I think you said he was facing you.

Schwab
A. (Inaudible) the question and then do that.

Kluth
A. What angle his body was?

Nemeth
Q. I guess you didn't understand the question, right, the way he was facing just put an arrow off of the circle to indicate, if he was facing you, you'd probably put the arrow pointing this way, if he was facing maybe towards the booth, not quite at you, you'd put the arrow pointing more towards the booth, that type of thing.

Kluth
A. I really don't remember exactly how he was standing.

Nemeth
Q. Okay.

Kluth
A. From what I remember, I don't know really how to do this--

Nemeth
Q. And that's all we're asking is from what you remember, every thing here today is what you remember.

Kluth
A. It was, well, I really don't remember exactly how he was standing--

Nemeth
Q. Okay.

Kluth
A. --I know it was at an angle.

Nemeth
Q. Alright, was his back more towards the wall, as opposed to his face?

Kluth
A. His face was pointed out towards me, but his head was turning.

Nemeth
Q. Okay, I guess from, from your position here where you've drawn your K holding the gate, was, where you looking at the back of his shoulders, or looking at the front of his chest when he had his head turned towards you?

Kluth
A. I was looking at, well, here then, I think it was, it was kind of an angle.

Nemeth
Q. You can draw however you want to on that, on that schematic, that's a, just a tool for us, you can do whatever you want to do to illustrate how he was standing.

Kluth
A. I guess it was this, or (inaudible). He was standing at an angle from the wall with his face towards me, and he was, his head was twisted further than the rest of his body was.

Nemeth
Q. Okay. Well, what you've done is you've drawn kind of a diagonal line but you put an arrow on both ends of it. Which way is his chest pointing, okay, let's try to do that, 'cause you say his head, head turns, so let's, which way is the front of his torso, is the front of his torso on this side of the arrow, or on that side of the arrow?

Schwab
A. Now, I don't really understand that question, Sergeant. I think the deputy can show you where he thinks his head was facing, but he said he didn't remember his exact body angle--

Nemeth
Q. That's true.

Schwab
A. So, he'd just be guessing at that, you want him to just to guess about that?

Nemeth
Q. No, I don't want him to guess I want him--

Schwab
A. Okay.

Nemeth
Q. --to remember.

Schwab
A. Okay, he said he didn't remember, I know you want him to, but he said he did not.

Nemeth
Q. Okay, Miss Schwab, thank you for your point. Deputy Kluth, what I'm asking you, is, is this a pretty significant incident in your career in the sheriff's department to this point?

Schwab
A. Well, now you're being argumentative.

Nemeth
Q. That's a question.

Schwab
A. You think being choked up by an inmate is not significant, Sergeant?

Nemeth
Q. Well, I didn't say anything, I'm asking the question, do you remember the question, Deputy Kluth?

Kluth
A. Yes.

Nemeth
Q. Do you, can you give me an answer to it?

Kluth
A. Yes, it was.

Nemeth
Q. Okay, do you remember that incident pretty vividly in your mind because of its significance in your life, and on, and on your career?

Kluth
A. The incident overall, yes.

Nemeth
Q. Okay, I'm not going to ask you to illustrate how many inches, or what the exact perpendicular fraction of this inmate's shoulders--

Schwab
A. But what are you asking--

Nemeth
Q. --were to the wall--

Schwab
A. --what are you asking him then?

Nemeth
Q. When I presume--

Schwab
A. I don't understand.

Nemeth
Q. What happens when you talk over is we have an unclear record, what I'm asking you is this, and that is, was the inmate's chest, in other words, this part of this body, 'cause the head can swivel left and right, obviously, but the chest and torso, were the chest and torso, the front of the torso pointing in this direction, or were they pointing this direction, I mean, you've drawn an arrow with two, with two heads on it here, so which--

Schwab
A. No, he hasn't.

Nemeth
Q. Well, whatever you want to call this, there's two pointers on this diagonal line you've drawn, which way was the inmate's chest. Was his chest on the, the direction of this arrow, or was his back on the direction of this arrow, which, which is it, that's all we're trying to get from you.

Schwab
A. I don't understand that question.

Nemeth
Q. Well, it doesn't matter if you don't understand it, I'm asking Deputy Kluth.

Kluth
A. I, I the arrows don't really mean anything.

Nemeth
Q. Okay, well draw whatever you want--

Kluth
A. I don't really remember--

Nemeth
Q. --to show me--

Kluth
A. exactly.

Schwab
A. Well, wait, he's trying to answer, and you're interrupting him.

Nemeth
Q. Please, please continue.

Kluth
A. I don't remember exactly how he was standing, I, I just don't remember, but I remember him looking at me.

Nemeth
Q. Okay, so is it possible that he was, his chest was pointing in this direction, but he turned over his left shoulder to look at you?

Kluth
A. No.

Nemeth
Q. That's not possible?

Kluth
A. No, he wasn't turned that much.

Nemeth
Q. Okay, well, then you have some memory of it, right?

Kluth
A. Some, yes.

Nemeth
Q. Okay, well which way was he pointing then? Was he, was it, if he didn't turn that much, then was his chest pointing this way, the front of his torso facing you?

Schwab
A. Okay, he said he didn't remember exactly, Sergeant.

Nemeth
Q. Well--

Schwab
A. You want him to guess about this--

Nemeth
Q. --well, Miss Schwab--

Schwab
A. --at this point.

Nemeth
Q. --we are entitled to thoroughly examine Deputy Kluth's memory in this incident, and help him.

Schwab
A. But, you're not entitled to badger him.

Nemeth
Q. Well, we're certainly aren't badgering him, we're--

Schwab
A. Yes, you are--

Nemeth
Q. --asking him questions.

Schwab
A. --badgering him, Sergeant, you are badgering him. He told you he did not remember.

Nemeth
Q. Okay.

Schwab
A. This diagram is not to scale, you asked him to put arrows on the diagram, he did so, then you represented that was his chest, when you had previously said he should put arrows where the head was facing back and forth--

Nemeth
Q. Right.

Schwab
A. That's exactly what he did, now you're confusing the record, and me, and Deputy Kluth.

Nemeth
Q. Okay.

Schwab
A. This is of no value to anyone.

Nemeth
Q. Let's, let's try to clear the record up, what I asked you to do was to point an arrow and show us which way his head was facing,

and what you've done, is you've drawn an arrow pointing two different directions, opposite of each other.

Schwab
A. Then, let him have a chance to answer that one question, before you ask another.

Kluth
A. You, now you're asking me to draw an arrow. You asked me to draw a line--

Nemeth
Q. Okay.

Kluth
A. --so I drew a line, it's these arrows aren't showing which way his head was pointing, you didn't ask me that.

Nemeth
Q. Okay, well, I'm asking you now, which way was his head pointing?

Kluth
A. It was pointing towards me.

Nemeth
Q. Okay, which way were his shoulders, were his shoulders parallel to the wall, or were they at an angle perpendicular to the wall, like you were saying?

Kluth
A. They were neither.

Nemeth
Q. They were neither.

Kluth
A. He wasn't parallel to the wall, he wasn't perpendicular, he was at an angle.

Nemeth
Q. Okay, would this line reflect that angle of his shoulders?

Kluth
A. I, I don't remember exactly how he was standing.

Nemeth
Q. Okay.

Kluth
A. The main thing that I remember is him looking at me with a crazed look in his face, after I had told him to go over there and face the wall.

Nemeth
Q. Now, when he looked at you with a crazed look, where were you at on this diagram?

Kluth
A. I was approximately half way between Baker row gate and inmate [redacted].

Nemeth
Q. Alright, why don't you make this a K one, and then show me K two where you were when you noticed he looked at you with a crazed look. Okay, so you're approximately half the distance from where you initially were, is that correct?

Kluth
A. That's correct.

Nemeth
Q. Okay. Where were inmate [redacted]' hands at this time, when you were in this position, at K two?

Kluth
A. I don't remember.

Nemeth
Q. Had you given inmate [redacted] any explicit instructions where to place his hands up to this point?

Kluth
A. No, I don't believe so.

Nemeth
Q. Alright, inmate [redacted], as you get to this point on K two, you say he's looking at you with a crazed look, is that correct?

Kluth
A. That's correct.

Nemeth
Q. Okay, this being the one gate, the main entry door into module 4400, was it open, locked, closed, and locked, or closed but unlocked, or completely open, or what?

Kluth
A. I believe it was locked.

Nemeth
Q. Closed and locked?

Kluth
A. Closed and locked.

Nemeth
Q. And that's the normal procedure for the module, correct?

Kluth
A. Yes.

Nemeth
Q. Okay. This is a jail, and the modules are secured holding areas for inmates, correct?

Kluth
A. Yes.

Nemeth
Q. Okay, you'd worked module 4400 for three months, I think you said, prior to this incident, is that correct?

Kluth
A. Approximately, yes.

Nemeth
Q. Okay, is that three months every day, or were you like a relief person?

Kluth
A. Every day.

Nemeth
Q. Okay.

Kluth
A. My normal shift.

Nemeth
Q. Okay, and that's the three months immediately preceding the incident, is that right?

Kluth
A. Approximately, yes.

Nemeth
Q. Okay, all on early morning shift?

Kluth
A. Yes.

Nemeth
Q. Okay, how long had you been assigned on early morning shift up to this incident?

Kluth
A. Since I got off training--

Nemeth
Q. Okay.

Kluth
A. --which would have been say March of '92.

Nemeth
Q. Okay, so from March of '92 until October of '94, approximately, two years and eight months, you'd worked the early morning shift.

Kluth
A. That's correct.

Nemeth
Q. Okay. And you had worked this three mod, this module for three months before, right?

Kluth
A. Yes.

Nemeth
Q. Okay. What type inmates are housed in this module?

Kluth
A. It's high mod, pill call.

Nemeth
Q. Okay, what does high mod mean to you?

Kluth
A. High security level.

Nemeth
Q. High security level?

Kluth
A. Yes.

Nemeth
Q. Is there a certain type of crime that high moderate classified inmates are, are charged with?

Kluth
A. Yes.

Nemeth
Q. And what's that?

Kluth
A. I'm not sure what all that, what all the charges are.

Nemeth
Q. Are they misdemeanor suspects, or are they felony suspects?

Kluth
A. They're felony suspects.

Nemeth
Q. Are they high grade felony suspects?

Kluth
A. Yes.

Nemeth
Q. Serious criminals, correct?

Kluth
A. Yes.

Nemeth
Q. Okay, and how--

Kluth
A. As serious as any in the jail, I mean, they're all, I consider them all serious.

Nemeth
Q. Okay, but the jail has a practice of classifying inmates, correct?

Kluth
A. Yes.

Nemeth
Q. And when you say high moderate, or high moderate, that to you means people who are charged with serious felonies.

Schwab
A. Why don't you ask him what that means to him, rather than putting words in his mouth, Sergeant?

Nemeth
Q. Well, I asked him that, and he, he--

Schwab
A. Okay, then why are you re-asking the question.

Nemeth
Q. I want to make sure we're clear on it.

Schwab
A. Okay, then just ask it without putting words in his mouth, let him answer the question.

Nemeth
Q. Okay.

Schwab
A. Your statements are not of value to the record, only his statements.

Nemeth
Q. Okay, Deputy Kluth, what is the high moderate, high moderate module mean to you?

Kluth
A. It means inmates in there are in there for more serious crimes.

Nemeth
Q. Okay.

Kluth
A. Not your misdemeanors or (inaudible).

Nemeth
Q. Okay, then you said something about pill call, what does that mean?

Kluth
A. It means they're on medication.

Nemeth
Q. Okay, are there any psychiatric observation type patients on medication in that module?

Kluth
A. Yes.

Nemeth
Q. Okay, and have you had contacts with those types, individuals, in your three months of working this module?

Kluth
A. Yes.

Nemeth
Q. Okay, alright. Alright, you get to point K two here on this schematic, and [redacted] is looking at you with a crazed look, you don't remember exactly how his body position is, but you know he's looking at you, so, you can see his eyes, is that right?

Kluth
A. Yes.

Nemeth
Q. That's how you form the opinion he's got a crazed look, right?

Kluth
A. He just, yeah, he had this crazed look in his eyes.

Nemeth
Q. Okay, please describe for me what a crazed look is to you.

Kluth
A. Kind of impossible to do, I mean he just looked very wild, like he was just ready to go off.

Nemeth
Q. Okay, what you did just now is you kind of accentuated your eyes opening real widely, is that what he was doing, his eyes opening real widely?

Kluth
A. Yes.

Nemeth
Q. Okay, did he do anything with his hands, or arms at that point?

Kluth
A. Not that I remember, no.

Nemeth
Q. Did he say anything to you at that point?

Kluth
A. No.

Nemeth
Q. Okay, when you arrived at K two, what's the condition of the Baker row gate, had you released it, and locked it, had you left it propped open, had you keyed it open, so it would not lock, what, what had you done with Baker row gate?

Kluth
A. I don't remember.

Nemeth
Q. Okay. No memory one way or the other whether you keyed it open, would you, would it be your normal practice to key that gate open so it was unlocked, or would it be your normal practice to do something else?

Kluth
A. It depends, if I was going down the row, I would key it open.

Nemeth
Q. Okay.

Kluth
A. Otherwise, no.

Nemeth
Q. Okay, were you going down the row in this instance?

Kluth
A. No.

Nemeth
Q. Did you ever intend to go down the row in this instance?

Kluth
A. No.

Nemeth
Q. Okay, so what's your normal practice under those circumstances?

Kluth
A. My normal practice is not to key the gate open.

Schwab
A. Not to keep it open?

Nemeth
Q. Not to key it open, or keep it open.

Kluth
A. I don't know, it's the same thing, I mean, you key it open, it's open, usually we shut the gate.

Nemeth
Q. If you key it open, my understanding is you key the latch mechanism in, but the gate closes, but it's just not locked, is that what keyed open means to you?

Kluth
A. Yes.

Nemeth
Q. Okay, actually, the, the gate's closed, but the latch, latching mechanism was keyed into a unlocked position so it will not release, and the gate is then freely swings back and forth, anytime somebody pulls on it, is that what you understand keyed open to mean?

Kluth
A. Yes.

Nemeth
Q. Okay, did you do that to the gate?

Kluth
A. I don't remember, I don't think so.

Nemeth
Q. Okay.

Kluth
A. It wouldn't be something I normally do.

Nemeth
Q. Okay. Is the sally port area here in terms of these other gates, the booth officer's gate, the Denver row gate, the Able row gate, and the Charley row gate, are those all closed and locked at this point in time, while you were at K two right here?

Kluth
A. I believe so.

Nemeth
Q. Okay.

Kluth
A. I, I didn't check them when I went out, but I'm sure they were.

Nemeth
Q. 'Cause it's your normal practice to keep your module locked and secured, correct?

Kluth
A. Yes.

Nemeth
Q. Okay, as is the front gate is locked and secured, you already said, right?

Kluth
A. Yes.

Nemeth
Q. Okay, at this point, when you see Deputy [redacted], or inmate [redacted] look at you with a crazed look, what else besides his bugged out or exaggerated eyes, does he make any facial grimaces, or anything of that nature, at that point?

Kluth
A. I don't remember any facial grimaces, but he had tensed up.

Nemeth
Q. Okay, tensed up. Did you see his, when you say tensed up, what did you see him do that causes you to say tensed up? Was there some body movement he made that caused you to formulate that opinion?

Kluth
A. I don't remember. I remember the only, or I remember him tensing up, but I don't remember exactly what it was that led me to that.

Nemeth
Q. Okay. Did you sense any danger at that point?

Kluth
A. Yes.

Nemeth
Q. Okay. What did you do after you were in position K two?

Kluth
A. Well, K two is when I noticed, when he was giving me the look, and I saw the look on his face, and, I moved from K two over towards him, to turn him towards the wall, 'cause he was at an angle.

Nemeth
Q. Go ahead and show me, with your pen, where you moved to turn him towards the wall, and put a K three in there. Okay, when you turned him towards the wall, how did that, how was that accomplished, or did you?

Kluth
A. I didn't turn him towards the wall.

Nemeth
Q. What happened at that point?

Kluth
A. When I reached over to, to move his shoulders, to turn him so he was facing the wall, is when he jumped, jumped and grabbed me.

Nemeth
Q. Okay.

Kluth
A. Started choking me.

Nemeth
Q. Alright, when you were at position K two here, how much distance is there, approximately, in feet, and this diagram is not to scale, so we need to just ask you your approximation of feet between you and inmate [redacted], at the position at K two there.

Schwab
A. K two to where?

Nemeth
Q. K two to W three, where [redacted] is positioned near the laundry room wall there.

Kluth
A. I guess it would be six, six, eight feet, something like that.
Nemeth
Q. Alright, alright, six or eight feet, so, it's obviously more than arm's length away from him, correct?

Kluth
A. Yes.

Nemeth
Q. Okay, and more than leg's length, correct, he couldn't kick you from there, right?

Kluth
A. No.

Nemeth
Q. Okay, and how about--

Kluth
A. Not in that position.

Nemeth
Q. --right, not from the position he was in, in relationship to where you were at K two, correct?

Kluth
A. Correct.

Nemeth

Q. Okay, now how about [redacted], how far is he from this wall, he never did, did he ever get on the wall like you told him to?

Kluth
A. No.

Nemeth
Q. How, how close or how far away was he from the wall at that point?

Kluth
A. About a foot.

Nemeth
Q. Foot away?

Kluth
A. Approximately.

Schwab
A. That's what he said, a foot away.

Nemeth
Q. Thank you, Miss Schwab. Which way were his, was, were his toes pointing, I mean were they pointing towards the wall, or were they pointing towards the row gate?

Kluth
A. I, I don't remember.

Nemeth
Q. Okay. Now, when you, when you're in position K three, what's the distance between you and inmate [redacted] here, W three?

Kluth
A. When I'm at K three?

Nemeth
Q. Yes this circle here that you drew.

Kluth
A. About an arm's length.

Nemeth
Q. Okay, so you closed the distance from what had been six or eight feet to arm's length of two and a half feet or so?

Kluth
A. It wasn't arm's length, it was just over arm's length.

Nemeth

Q. Okay, what was your intent, when you moved from K two to K three, think you said something about it earlier. What did you intend to accomplish by doing that?

Kluth
A. I intended to have him face the wall, and gain control of him.
Nemeth
Q. Okay, and how did you plan to do that?

Kluth
A. Have him face the wall, spread his legs, and get his hands behind his back, just to make sure he wasn't going anywhere, 'cause once I saw the look in his eyes, told me then, and the way he started to tense up, that I should, I wanted to get, you know, control.

Nemeth
Q. Uh-huh. Okay, when you're in that position--

Schwab
A. What position?

Nemeth
Q. K three, here, you, you moved there to have him face the wall, correct, that was your intention of moving from K two to K three?

Kluth
A. Yes.

Nemeth
Q. Okay. How did you plan to accomplish that, I mean, what did you plan to do, order him, get close to him, and order him to face the wall, or, or what?

Kluth
A. Well, I told him again, to face the wall. I told him from K two to K three, or as I moved towards him, to face the wall.

Nemeth
Q. Okay. Make sure I have this right, see how many times he doesn't listen to you. At K one, you're holding the gate open, correct, for him to come off of the row, Baker row?

Kluth
A. Yes.

Nemeth

Q. And [redacted] comes off the row, and as he does, you direct him to go to this wall here, where you've marked W three, is that right?

Kluth
A. Yes.

Nemeth
Q. Okay, and he does that, but he doesn't go all the way up against the wall, he's approximately a foot away from the wall, right?

Kluth
A. Approximately.

Nemeth
Q. Okay, you leave K one, and move to K two, and did you do any, did you re-order him to do anything at that point?

Kluth
A. I don't exactly remember when I was telling him to, but I told him two or three times from, between K one, to move up against the wall.

Nemeth
Q. Okay.

Kluth
A. Up against the wall.

Nemeth
Q. Did he acknowledge his instructions?

Kluth
A. No.

Nemeth
Q. None of the two or three times you told him to do that?

Kluth
A. No.

Schwab
A. What do you mean, acknowledge?

Nemeth
Q. I mean did he do it, did he face the wall like you told him to?

Kluth
A. No.

Nemeth
Q. Okay, so you move into position K three, and, and he's already not done what you've told him to do two or three times, how do you intend to make him do it, when you move from K two to K three?

Kluth
A. How do I intend to make him face the wall?

Nemeth
Q. Right.

Kluth
A. Just by merely turning him to face the wall.

Nemeth
Q. Okay, and for the tape, you gestured out with your left hand, and then brought your right hand up. Did you intend to physically touch him that position of how you wanted him to be on the wall?

Kluth
A. Yes.

Nemeth
Q. Okay. At this point, Deputy Sloan's in the 4400 module control booth, is that correct?

Kluth
A. Yes.

Nemeth
Q. Do you know exactly where he is, inside that booth?

Kluth
A. No.

Nemeth
Q. Had you made any eye contact with Deputy Sloan as you moved from K one, to K two, to K three, those three, those positions?

Kluth
A. No.

Nemeth
Q. Okay. Did you know if Deputy Sloan was, was watching your actions with inmate [redacted] during this period?

Kluth
A. No.

Nemeth

Q. Okay, alright, now, I think we're at the part, while you're moved to K three, your intention to move him there, if I understand what you said so far, is to, he's not listening to you, two to three times you told him to face the wall, you moved to K three, to physically position him the way you wanted to be, is that right? Is that what you said to this point?

Kluth
A. I moved over to, to turn his body, face the wall, yes.

Nemeth
Q. Okay. Did you ever do that, or, what, what happens from this point forward?

Kluth
A. Well, I got over close to inmate [redacted], like I said, I was about, just over an arm's length, 'cause I reached over and, to move him to face the wall, as I did that, is when he jumped at me, and grabbed me around my neck, and started choking me.

Nemeth
Q. Okay. Did you touch inmate [redacted] anywhere on his body?

Kluth
A. No.

Nemeth
Q. You never made contact with his body?

Kluth
A. I never made contact.

Nemeth
Q. Okay, and as you were just speaking, you were gesturing with your left arm extended straight out, in front of you, palm open, and what part of your palm were you intending to touch, what part of [redacted]' body were you intending to touch with your, did you have your left arm extended at that time that you walked towards [redacted] like you just gestured here?

Schwab
A. Wait, which question do you want him to answer--

Nemeth
Q. Just the last one--

Schwab
A. --there are two questions.

Nemeth
Q. --just the last one.

Kluth
A. Did I have my arms out?

Nemeth
Q. Yes--

Kluth
A. or did I--

Nemeth
Q. --just like you gestured here, did you have your left arm out with your palm open, when you walked towards [redacted]?

Kluth
A. I don't believe so, I don't, re, I don't remember.

Nemeth
Q. Okay. What part of [redacted]' body did you intend to touch the position and the way you wanted him to be on the wall?

Kluth
A. His shoulder.

Nemeth
Q. Okay, which shoulder?

Kluth
A. I don't remember.

Nemeth
Q. Okay, and from that, as you closed the distance, you said you were a little more than arm's length away, tell me what happens next, you never did get to touch him, is that right?

Schwab
A. Wait, which question do you want him to answer, you've asked three questions, every time you ask one, tell us which question you want him to answer, Sergeant.

Nemeth
Q. If I ask too many questions, what I'd like you to do, and, and your representative--

Schwab
A. No.

Nemeth
Q. --has certainly pointed out to me when I do that, just answer the last question, and I'll re ask the others, okay?

Schwab
A. Okay, now--

Nemeth
Q. So, the last question is--

Schwab
A. --just, just for the record, Sergeant, I'm going to tell you every time you're asking more than one question at a time, because I want to clarify which question you want him to answer--

Nemeth
Q. That's right.

Schwab
A. --if this takes nine hours, because you can't restrain yourself, in doing that, we will take nine hours.

Nemeth
Q. Well, I certainly hope it won't take nine hours, but we'll do our best. Deputy Kluth, what happened when you approached the inmate, and hadn't yet had a chance to touch him?

Kluth
A. At what time, as I got out there?

Nemeth
Q. Yes, the very first thing.

Kluth
A. As I attempted to turn him, as I attempted to reach over, and you know, turn him towards the wall, is when he jumped at me, and grabbed me around the neck, and started choking me.

Nemeth
Q. Okay. Which arm did he grab you with, or how did he jump you?

Kluth
A. Which arm did he grab me with around the neck, it was his right arm.

Nemeth
Q. Okay.

Kluth
A. He kind of twisted, or lunged and twisted at the same time, he came around, and grabbed me around the neck.

Nemeth
Q. Okay, what you did for the tape was you're twisting your upper torso, moving your shoulders, in a twisting motion, is that a fair statement, what you just gestured?

Kluth
A. Yes.

Nemeth
Q. Okay. And, you did that, moving from, towards your left, you were tilting your head to your left, is that how, how you remember it happening?

Kluth
A. I don't remember how he placed his, 'cause I don't really remember how he was standing. I remember seeing him turn and jump.

Nemeth
Q. Turn and jump? Okay. He gets you in some type of a hold, describe that hold for me, you said with his right arm--

Kluth
A. He had me around the neck, choking me.

Nemeth
Q. --okay. Was it in a carotid type of hold, or was it any type of hold, or, in other words, was, where was the inmate's elbow? If you know, his right elbow?

Kluth
A. I don't know.

Nemeth
Q. Okay, did you feel pressure across your larynx area, your adam's apple?

Kluth
A. Yes.

Nemeth
Q. Okay. Or did you feel more pressure along your carotid arteries?

Kluth
A. I felt pressure pretty much all the way around.

Nemeth
Q. All the way around? What, was the inmate doing anything with his left arm?

Kluth
A. Yeah, he was trying to hit me.

Nemeth
Q. Describe that for me.

Kluth
A. He had me around the neck, and we were a little hunched over, as he's choking me with his left arm, he's swinging, trying to hit me.

Nemeth
Q. When you say hunched over, can you describe that for me, I mean were you bent forward at the waist, or sideways, or what? What's hunched over?

Kluth
A. Well, I'd be bent over at the waist.

Nemeth
Q. Forward?

Kluth
A. Forward.

Nemeth
Q. Okay, was his left hand in a fist, open handed, or what?

Kluth
A. His left hand was in a fist.

Nemeth
Q. Okay, that's the one he was trying to hit you with, is that right?

Kluth
A. Yes.

Nemeth
Q. Did any of those blows land?

Kluth
A. You know, I don't know if it was my hand hitting, 'cause I was blocked, or my left hand, and I don't know if my hand was hitting myself from the, but he was, he had a big (inaudible).

Nemeth
Q. Okay, did you suffer any injuries as a result of those blows by [redacted]?

Kluth
A. From the left fist?

Nemeth
Q. Yeah.

Kluth
A. No.

Nemeth
Q. Did you suffer any injuries from any blows struck by [redacted] on you?

Kluth
A. As far as from the left hand, I don't, I don't think so, right hand, yes.

Nemeth
Q. Okay, what did, what did you suffer from the right hand?

Kluth
A. I had a, I had some pretty deep scratches on my neck, kind of tweaked, kind of tweaked me.

Nemeth
Q. Hold on a second. Okay, so you were saying you had some deep scratches, and a kind of tweaked you or something, and you were about to say you know--

Kluth
A. And that was it from that, I hit my arm when we went to the ground but that was, that was later.

Nemeth
Q. Okay. The scratches, do you know how you got those?

Kluth
A. Not (inaudible).

Nemeth
Q. Specifically?

Kluth
A. Specifically, no.

Nemeth
Q. Okay, the other, the, the tweaked part of your neck, does that mean you were stiffening your neck, or had muscle pain, or what does that mean?

Kluth
A. I was, my neck was stiff, my back was stiff, and sore.

Nemeth
Q. Okay. Was that a result of the neck hold that [redacted] had you in?

Schwab
A. Do you know exactly how you sustained the injuries?

Kluth
A. No, I, I don't where they came, I know I had it after it was done.

Nemeth
Q. Okay. When [redacted] had you in this hold, did he move from where his position was, to where your position was, or was it somewhere in the middle, or did you move, towards his position?

Schwab
A. (Inaudible) where they moved.

Nemeth
Q. Where did you move?

Kluth
A. When?

Nemeth
Q. When [redacted] first got this neck hold on you?

Kluth
A. Well, he turned, and jumped at me, as I was going to move, so I'm kind of moving towards him, and he turns and grabs me--

Nemeth
Q. Okay.

Kluth
A. --so it was in the same area, like in between--

Nemeth
Q. In between?

Kluth
A. --yeah, in between I'd say.

Nemeth
Q. Because you were still walking towards him, as this happened, is that right?

Kluth
A. I was, I was still moving towards him, yes.

Nemeth
Q. Okay, alright, so, he gets you in the neck hold, and you said something about bouncing off bars earlier when you, when you made your initial statement, where, where did you bounce off the bars?

Kluth
A. Pretty much the whole sally port area.

Nemeth
Q. Okay, did you bounce off the bars on this side of the module, The A, C, Able Charley row sides, and if so, was it the shower bars, or was it the, was it the row gate bars?

Kluth
A. I believe we covered pretty much the whole area, so I'd have to say it was probably all the bars.

Nemeth
Q. All the bars on the Able Charley side of the module, is that what you're saying, or all the bars everywhere?

Kluth
A. Well, all the bars on the Able Charley side, and then we did--

Nemeth
Q. We'll take a brief break, the time is 1130 hours. Okay, we're back on the record after a brief break, the time is, other than, did you know he was in the, the control booth security area from module 4400?

Kluth
A. I knew he was in the module.

Nemeth
Q. In the secure area here?

Kluth
A. Yes.

Nemeth
Q. Okay, but you didn't know where?

Kluth
A. No.

Nemeth
Q. Exactly?

Kluth
A. No.

Nemeth
Q. The gate, the door to module 4400 deputies' security booth, was that open or closed?

Kluth
A. Closed.

Nemeth
Q. Closed and locked, like it's supposed to be?

Kluth
A. Yes.

Nemeth
Q. We covered it a bit earlier, but I want to go into it just a little bit, to make sure we have it fully understood. Your intention was to approach the inmate, and touch his body and position him the way, you, you intended for him to be on this wall, is that correct?

Kluth
A. I, I intended to move him to face the wall.

Nemeth
Q. Okay, and he was not facing the wall, when you were approaching him, is that correct?

Kluth
A. That is correct.

Nemeth
Q. Okay. You don't know exactly what his body position was, but you know he wasn't facing the wall as you had instructed him to do, correct?

Kluth
A. Correct.

Nemeth
Q. What was your intention, after you touched him, and placed him in that position, what were you gonna do while he was in that position, which you never got him to, but what was your intention after you placed him in that position?

Kluth
A. To talk to him.

Nemeth
Q. About his refusal to follow your instructions?

Schwab
A. Why don't you ask him what about?

Nemeth
Q. Or what about?

Kluth
A. I was gonna ask him why he wasn't locking it down in his cell.

Nemeth
Q. Okay, now, is there a reason, or what is the reason, if there is one, why you didn't do that when inmate [redacted] was locked on Baker row, and you came out to that position at K one?

Kluth
A. I didn't want to yell down at him into the, on to Baker row. The way I usually do things is I pull him out, talk to him, find out what the problem is, and go from there.

Nemeth
Q. Okay, why did you take him off of the row here, where there's a locked gate separating you and he, why did you ask him to exit the row into the sally port area, where he could attack you?

Kluth
A. Well, I didn't know he was going to attack me.

Nemeth
Q. Okay, I, I grant you that, but I guess, why did, why didn't you just talk to him when there's a locked gate separating the two of you?

Kluth
A. 'Cause at the point when he was on Baker row, he didn't appear to be combative, or to cause any problems. He seemed to, he came up the stairs, well, you know, as I was talking with him, didn't cause any problems, and he was going along with the program, so, I didn't see any danger to myself to pull him off the row.

Nemeth
Q. Okay. However, after you directed him to go to his position at W-3, while you were standing in the middle of the sally port area, the circle you drew at position K-2 is in reference to where the deputies' control booth entry door is, is pretty much directly across from it, and you said the distance between you and [redacted] at this point was six to eight feet, and that's when [redacted] looked at you with a crazed look is that correct?

Kluth
A. I wasn't just standing in the middle, I was--

Nemeth
Q. Closing the distance towards him?

Kluth
A. --closing the distance towards him, and that's when I realized, that' when I saw the look on his face.

Nemeth
Q. Okay, when you saw the crazed look in his face, why didn't you go in to the 4400 module, deputy control booth?

Schwab
A. Are you suggesting he should have turned around and run away? Is that what you're suggesting, Sergeant?

Nemeth
Q. Yes, that's exactly what I'm--

Schwab
A. To turn around and run away?

Nemeth
Q. --that's exactly what I'm suggesting--

Schwab
A. I see.

Nemeth
Q. --to avoid an attack on you, that causes injury to you.

Schwab
A. Did you think he was going to attack you?

Kluth
A. At the point, I did not think he was going to attack, and I still thought, I just turned towards the wall, if I were to turn around and go to the booth, I couldn't get into the booth, anyway.

Nemeth
Q. Okay.

Kluth
A. So, then I had my back towards him.

Nemeth
Q. Okay, but you didn't think he was gonna attack you, though, you said, a minute ago, right?

Kluth
A. No, I didn't.

Nemeth
Q. Okay. But, what you said earlier was you sensed danger from him at this point, do you remember that?

Kluth
A. I, I saw the look on his face, which just wanted me to get him up on the wall.

Nemeth
Q. Okay.

Kluth
A. That's, that's--

Nemeth
Q. Alright. When you sensed this danger and saw that look that caused you to sense this danger, did you do anything to attract Deputy Sloan's attention to you?

Kluth
A. No.

Nemeth
Q. Did you, did you talk to Deputy Sloan, did you say, "Hey, call a prowler," or anything like that, "get me some back up out here," anything of that nature?

Kluth
A. Deputy Sloan was inside the booth at the (inaudible).

Nemeth
Q. Okay, isn't there a mail slot in that booth there, that you can communicate through?

Kluth
A. Barely.

Nemeth
Q. Barely. Okay.

Kluth
A. I didn't think it was a problem, or I would have called for a prowler.

Nemeth
Q. Okay, okay. If you needed to talk to the inmate person to person, face to face, did you ever consider having the inmate turn

around here at the Baker row gate, and handcuff him through the gates?

Kluth
A. No.

Nemeth
Q. Have you ever seen that done before?

Kluth
A. Yes, but not, it's not a common thing, it's for your, your K-10's and your very high security levels, you'll do that, but not for, just your regular general, general population.

Nemeth
Q. Is there a rule, regulation, or procedure that prohibits you from handcuffing inmate [redacted] at this point, if you wanted to talk to him face to face?

Kluth
A. That prohibits me from doing that?

Nemeth
Q. Yes.

Kluth
A. No.

Schwab
A. Is there a rule that requires you to do that?

Nemeth
Q. She's asking you a question, okay. Is it, is it--

Schwab
A. Sergeant, would you like to talk about staffing at Central jail, would you like to talk about how many available deputies there might have been to really help Deputy Kluth out, and how often they have to contact inmates on a routine basis--

Nemeth
Q. Okay.

Schwab
A. --exactly in this setting--

Nemeth
Q. Well, as you know, Miss Schwab--

Schwab
A. --why don't you ask those kinds of questions, so that you can make a full and fair record, rather than just your statements as opposed to the full record?

Nemeth
Q. Well, we're gonna get a full record and the, the situation here is that I get to select the questions that we get to ask, because we're--

Schwab
A. And, and they, and they are very selective.

Nemeth
Q. --because we're in, in interviewing you, and we're investigating this incident, involving you, okay, we're not investigating staffing at the jail, do you know anything about staffing at the jail, Deputy Kluth?

Kluth
A. I know we're short handed on earlies.

Nemeth
Q. Okay, do you know how many deputies and sheriffs are assigned to Central jail?

Kluth
A. No.

Nemeth
Q. Do you know the num, percentage of deputies off on IOD at Central jail?

Kluth
A. No.

Nemeth
Q. Do you know the minimum shift requirements--

Schwab
A. Sergeant--

Nemeth
Q. --at Central jail?

Schwab
A. --move along.

Kluth
A. No.

Nemeth
Q. Okay.

Schwab
A. How do you know you're short staffed on early mornings?

Kluth
A. 'Cause there's never enough help, I mean, if you have something major going on, whether there's a major fight or something, you have to drain the jail to get people there, and every floor is short.

Nemeth
Q. Was there any incidents going on in the jail at the time, that you contacted inmate [redacted]?

Kluth
A. I don't know.

Nemeth
Q. That you were aware of?

Kluth
A. Not that I'm aware of, no.

Nemeth
Q. If there had been a major event going on, at the jail that drained and depleted the staffing at the jail, would Deputy Sloan be seated in your module booth, asking you to go to dinner with him?

Schwab
A. If you don't know, you can say you don't know the answer to that question, it calls for speculation.

Kluth
A. I don't know.

Nemeth
Q. Would a reason, would a reasonable deputy see that another deputy would be busy, in with the module, if there was a major inmate incident occurring at Central jail?

Schwab
A. Sergeant, we're talking about an incident in this case, where nobody knew about this incident--

Nemeth
Q. That's right.

Schwab
A. --so, if you're suggesting that somehow there was a major incident that would have gone out, and everybody would have know about it, and that's not the case.

Nemeth
Q. Okay, that's not the question.

Schwab
A. Okay--

Nemeth
Q. Do you understand the question?

Schwab
A. --your question's not fair, Sergeant.

Nemeth
Q. Okay, but I still need to ask it.

Schwab
A. Okay, it's not fair, he's not gonna answer it.

Nemeth
Q. You gonna order him not to answer a question?

Schwab
A. I don't give my clients orders, Sergeant.

Nemeth
Q. Alright, Deputy Kluth, answer the question--

Schwab
A. I don't understand the question.

Nemeth
Q. Do you believe it's reasonable for Deputy Sloan to be sitting in the module, 4400, if there's a major incident ongoing somewhere in the jail that would require his response?

Schwab
A. Sergeant, let me just tell you, you're losing credibility by the way you're handling this interview, you are trying to put words in this deputy's mouth, you are trying to make a very narrow record, you're trying to spend 45 minutes on something that took place over a few seconds--

Nemeth
Q. That's (inaudible).

Schwab
A. --you're going to lose credibility in this investigation, and your statements are not of any value on the record, now let's move along.

Nemeth
Q. Are you, are you threatening me with the way--

Schwab
A. Do you feel threatened, Sergeant?

Nemeth
Q. Yes, I do, from your statements.

Schwab
A. Would you like to take a break, and we'll come back another day to do this where you feel less threatened?

Nemeth
Q. Well, I tell you what, let me ask the questions without your frequent interjections, and if you have an objection, you're welcome to make it on the record, but then we'll move along, okay.

Schwab
A. Okay, I find your questions objectionable--

Nemeth
Q. Okay.

Schwab
A. I find your very selective process of questioning very objectionable. You haven't asked these deputies anything about what the sergeants said to them afterward as to the nature of the event, such as the fact that he told them that they could have used lethal force, under the circumstances--

Nemeth
Q. Okay.

Schwab
A. You are very selective in your questioning, you do nothing to get these deputies state of mind as to why they behaved the way they did, you're trying to pick apart the incident, armchair quarterback after the incident, when this deputy routinely contacts inmates and did so at the time in the same manner he did so with this inmate. He acted consistent with his training and experience, that's what you need to find out.

Nemeth
Q. Okay, thank you for your opinion on that, Miss Schwab, we'll get there, if we can stop with the interruptions, we'll eventually be able to conclude the interview, hopefully today.

Schwab
A. Okay, Sergeant, just to let you know, my role is defined by the government code. I'm a representative under the government code. I represent. I do not observe, I do not monitor, you are not asking this deputy fair questions, I find your questions objectionable, each time you ask a question, you ask at least five additional questions, it's very confusing and very difficult for the deputy and for myself to listen and sit through this interview.

Nemeth
Q. Okay, on the record it will speak for itself as to the clarity of the questioning, and the ability of the subject to answer the questions. You can state your objections for the record, or for the tape, but we'll try to proceed through the questioning process as best we can. Okay, Deputy Kluth, did you make any attempt to request anybody from the 4000 patrol booth, any 4000 prowlers to come in and assist you prior to contacting inmate [redacted]?

Kluth
A. No.

Nemeth
Q. Did you make a request for anyone to come and assist you with inmate [redacted]?

Kluth
A. No.

Nemeth
Q. Okay. Okay, so you get to the point where [redacted] has you in the headlock, at some point you said you escaped from him, is that right? Momentarily?

Kluth
A. Momentarily, I basically got away from him.

Nemeth
Q. Where were you at when, when you made that momentary escape?

Kluth
A. I guess it would be in front of, either the, I'd have to say it would be in front of Baker or Denver row, somewhere in this area, but I'm not sure, I don't really remember, we were kind of covering the whole area, so I don't know where I was at that time.

Nemeth
Q. Alright. From the moment inmate [redacted] lunged at you, touched you, grabbed you, until the eventual end of the incident, or what at least the end of the incident as far as when inmate [redacted] is handcuffed and hobbled, how much time elapsed?

Kluth
A. I don't know.

Nemeth
Q. Can you give me a estimation?

Kluth
A. I guess, probably four to five minutes.

Nemeth
Q. Okay.

Kluth
A. Seemed like forever, I, I don't know.

Nemeth
Q. Okay. After you momentarily broke free from [redacted] in this area in front of Baker Denver row, what happened next, were you, was it just you and [redacted] still, at that point?

Kluth
A. Yes.

Nemeth
Q. Okay, and then what happens? Did he regain a hold on you?

Kluth
A. Yeah, I got away, I got away from him, and I started backing up, and as I started backing up, he was on top of me again and choking me.

Nemeth
Q. Okay.

Kluth
A. I didn't get very far.

Nemeth
Q. Alright, and how long were you in that position before, I think you said you decided to take him to the floor?

Kluth
A. I don't know.

Nemeth
Q. Alright, did you take him to the floor?

Kluth
A. Yes.

Nemeth
Q. How did you do that?

Kluth
A. Just kind of twisted and pushed, pushed off with my feet, and kind of twisted his, we just both hit on the ground.

Nemeth
Q. Did you utilize some type of wrestling move, or leg sweep, something along that nature to take [redacted] to the ground?

Kluth
A. No.

Nemeth
Q. But, you intended to take him to the ground?

Kluth
A. Intended to try to take him to the ground, 'cause I was, I was out of options.

Nemeth
Q. Okay, and did it work, what you did?

Kluth
A. It kind of worked, yeah I got him to the ground, but he still had a hold of me, so--

Nemeth
Q. So, when you fell to the ground, where did, where did you land in relation to the diagram here?

Kluth
A. I landed somewhere in this area right here.

Nemeth
Q. Would you indicate where you were and where [redacted] was with a "W" and a "K" in the circles?

Kluth
A. I can't, I, I don't know how we landed or which side of them I was on.

Nemeth
Q. Okay, but you just landed, put an "X," then where you think the two of you landed.

Kluth
A. Somewhere in this area.

Nemeth
Q. Okay, just, just write, landed, or something there, so we know what that "X" refers to. Okay, alright, when you landed, what was your body position?

Kluth
A. Kind of half on top of him, and half underneath him.

Nemeth
Q. What half was underneath him?

Kluth
A. Well, I know my, my right arm was underneath him, 'cause I hit my right elbow on the ground.

Nemeth
Q. Okay.

Kluth
A. But as soon as we hit, we were wrestling around trying, I was trying to get away from him, and to get his arm from around my neck.

Nemeth
Q. How did you do that?

Kluth
A. Once I hit the ground, I just started twisting my body to move away from him, and try to pull my head out, and just as we hit, other deputies came in, and them plus me, trying to wiggle, we got out, I'm not exactly sure how I got his arm off, I, I don't remember.

Nemeth
Q. Alright, at what point did the other deputies arrive, before you fell, or after you fell?

Kluth
A. I think it was just as I was going down they came in.

Nemeth
Q. Did you see them come in, then?

Kluth
A. I heard them, I didn't see them.

Nemeth
Q. Do you know who it was?

Kluth
A. At the time that I went down, no, I had no idea who it was.

Nemeth
Q. Okay, did you know how many people had arrived?

Kluth
A. No.

Nemeth
Q. Okay. Now after you go down to the ground, about how much time goes by until you can free yourself from [redacted]?

Kluth
A. I'd guess, probably 15 second maybe.

Nemeth
Q. Okay. Did you ever, at any point, feel that you were going to lose consciousness during this event?

Kluth
A. Before--well, actually before I broke away from him the first time, I--I don't know if I was at the point where I thought I was loosing consciousness, but I couldn't breath. He was choking me. And then when he grabbed me the second time I was--I think I was on the--on the verge of--of maybe blacking out. I still couldn't breath because he was still choking me and that's like I said--I was out of options. I couldn't get him off me.

Nemeth
Q. Okay. At any point in this incident, up to where we are now, which is when you land on the floor with [redacted], had you communicated at all with Deputy Sloan?

Kluth
A. No.

Nemeth
Q. Had Sloan asked you any questions or--or anything of that nature? Had he tried to communicate with you, to your knowledge?

Kluth
A. Not that I know of.

Nemeth
Q. Okay. Were you able to summon help in any way?

Kluth
A. No.

Nemeth
Q. In the regular module controller, did you have a flashlight on you?

Kluth
A. No.

Nemeth
Q. Were you carrying OC spray?

Kluth
A. No.

Nemeth
Q. Were you carrying a radio?

Kluth
A. No.

Nemeth
Q. And when you exited the booth--this is going back to the very initial contact when you went near to K-1 and opened the--the row gate, what was Deputy Sloan doing in the--in the module, if you know?

Kluth
A. Well, when he first came in?

Nemeth
Q. No. When you first exited. When you first exited the safety area and went out to the sally port area?

Kluth
A. When I first exited, he was walking, I assume, back to answer the phone because the phone was ringing.

Nemeth
Q. Okay. All right. So, you and--and inmate [redacted] land and you say approximately 15 seconds after you land you're able to free yourself from his hold around your neck?

Kluth
A. Approximately. I don't know how long exactly.

Nemeth
Q. Right. Had the other people who you don't know--you don't know how many there were or who they are at this point, but had they arrived at that point yet?

Kluth
A. Well, like I said, as we--as I went down to the ground or took him down--the inmate down--we did--I heard deputies coming--coming at the same time.

Nemeth
Q. Okay. And how did you free yourself from [redacted]?

Kluth
A. Like I said, I was twisting and pulling and I don't know exactly how. I think it was all around.

Nemeth
Q. Did you punch [redacted] at all, at that point?

Kluth
A. No.

Nemeth
Q. Okay. Did you apply any control holds to [redacted] at that point?

Kluth
A. No.

Schwab
A. Did [redacted] apply any control holds?

Nemeth
Q. Well, [redacted] had you in some type of hold around the neck, is that what you're saying?

Kluth
A. He was choking me.

Nemeth
Q. Okay, was he still choking you after you had landed?

Kluth
A. I don't remember if he was still choking me, but I do know he still had his arm around my neck.

Nemeth
Q. He was holding on to you?

Kluth
A. Yes.

Nemeth
Q. Were you giving [redacted] any orders or anything at this point, saying anything to him?

Kluth
A. No.

Nemeth
Q. Was he, did [redacted] say anything to you from the moment he touched you until where we are now, when he--

Kluth
A. I don't remember, no.

Nemeth
Q. Okay.

Kluth
A. I don't remember him saying anything.

Nemeth
Q. Okay, so you, you're able to free yourself, what happens next, now to, at this point, you, you release yourself from [redacted]' grasp, what happens from that point?

Kluth
A. Well, it happened pretty quick as far as, you know, getting out and stuff. I, I don't, I remember I went for his left arm, and had to fight with his left arm to get it behind his back, then I got his arm behind his back, and then I held on to that.

Nemeth
Q. Okay. Was there anybody else dealing with him at this point?

Kluth
A. Yes.

Nemeth
Q. Who was that?

Kluth
A. At the time, I don't know who it was.

Nemeth
Q. Do you know now?

Kluth
A. Yes.

Nemeth
Q. Who was it?

Kluth
A. It was Deputy [redacted] and [redacted] They were both there, they're the ones who came in.

Nemeth
Q. Okay, anybody else come in with them?

Kluth
A. No. I don't believe so, but I don't know.

Nemeth
Q. Okay, what was [redacted] doing?

Kluth
A. He was trying to control the inmate's legs.

Nemeth
Q. Do you know how?

Kluth
A. Not really no.

Nemeth
Q. How about [redacted] what was he doing?

Kluth
A. He was trying to get the right arm back, but I really don't know what he was doing, because I was, after I got the arm behind inmate [redacted]' back, I'm kind of faced towards his feet, my back was towards his head, and I'm holding onto his arm.

Nemeth
Q. Okay. What's [redacted]' position as you're attempting to retrieve his left arm?

Kluth
A. I don't remember where he was.

Nemeth
Q. Well, was he laying on his back, on his side, or on his stomach?

Kluth
A. I don't remember.

Nemeth
Q. Was he standing up, or was he kneeling down, or was he laying down?

Kluth
A. He was on the ground.

Nemeth
Q. Okay, where was his arm at, the left arm that you were trying to, to gain control of, where was it, as you were trying to gain control of it?

Kluth
A. I don't remember.

Nemeth
Q. Okay. What did you do in attempt to gain control of his arm?

Kluth
A. I don't really remember what I did to gain control or to get it, but I know once it was there, and I had it, I just had to fight with him to bring it back behind his back, that's, that's all I remember.

Nemeth
Q. Okay. Did you apply any control holds to his arm or wrist or hand in an attempt to gain control of that left arm?

Kluth
A. No.

Nemeth
Q. Did you, at any time during this struggle with [redacted], after you freed yourself, did you punch [redacted]?

Kluth
A. Any time, I'm sorry, I didn't--

Nemeth
Q. Well, let's just say, at any time during the incident, did you punch [redacted] with your fist, either one?

Kluth
A. Yes.

Nemeth
Q. Okay, which fist did you punch [redacted] with?

Kluth
A. I punched him with my right fist.

Nemeth
Q. Okay, and where did you punch [redacted] with your right fist?

Kluth
A. In the kidney area, his left kidney area.

Nemeth
Q. How many times?

Kluth
A. Three or four times.

Nemeth
Q. Why did you do that?

Kluth
A. 'Cause I had control of the left arm behind his back, and I could hear him struggling trying to get his arm back, and I knew it wasn't there, 'cause it wasn't there in a cuff, so I knew they were fighting with it, so that's when I gave him three or four kidney shots.

Nemeth
Q. Okay, when you say you heard him struggling to his get arm, do you mean his right arm?

Kluth
A. Yes.

Nemeth
Q. Or the one you were holding?

Kluth
A. No, I had his, after I gained control of his left arm behind his back, the right arm wasn't there. I knew they were fighting with it, or fighting with him trying to get his arm back, and that's where I tried to give him the pain compliance, so they could get his arm back.

Nemeth
Q. Okay. Who was trying to get his arm, who's they?

Kluth
A. At the time, I didn't know, afterwards I found out it was [redacted] and Sloan.

Nemeth
Q. Okay, was anybody giving the inmate any directions or orders at this point?

Kluth
A. Not that I really remember, no.

Nemeth
Q. Was anybody telling the inmate to put his arms behind his back, or give up, anything of that nature?

Kluth
A. I don't remember.

Nemeth
Q. Okay. Aside from those three to four punches with your right fist, after a tape change, continuing with the question, after those three or four punches with your right fist to [redacted] left kidney area, did you punch him anywhere else?

Kluth
A. No.

Nemeth
Q. Are those the only punches you threw to inmate [redacted]?

Kluth
A. Yes.

Nemeth
Q. Did you use any type of force on inmate [redacted], besides these punches?

Kluth
A. What do you mean, as far as the force of us banging on the bars, or--

Nemeth
Q. Aside from what you've already described with regard to, you're wrestling with him, trying to remove the arm, and bouncing off bars, I think is the terminology you used earlier, aside from that, and this three to four punches with your right fist, is there any other physical force you used on inmate [redacted]?

Kluth
A. No.

Nemeth
Q. Did you ever kick inmate [redacted]?

Kluth
A. No.

Nemeth
Q. Did you ever punch inmate [redacted] in the head area, or facial area?

Kluth
A. No, no.

Nemeth
Q. Did you ever apply any control holds anywhere on [redacted]?

Kluth
A. No.

Nemeth
Q. Did you use any impact weapons at all on [redacted]?

Kluth
A. No.

Nemeth
Q. Okay. Did you see [redacted] or [redacted] use any impact weapons on [redacted]?

Kluth
A. No.

Nemeth
Q. Did you see [redacted] or [redacted] punch [redacted]?

Kluth
A. No.

Nemeth
Q. Okay. Alright, so we left off with you holding inmate [redacted]' left arm behind his back, and you saw two individuals who you later learned were Deputy [redacted] and [redacted] struggling with [redacted]' right arm, correct?

Kluth
A. No.

Nemeth
Q. Correct me if I'm wrong.

Kluth
A. [redacted] was on the legs.

Nemeth
Q. Okay, who was working on the right arm?

Kluth
A. I later learned that it was [redacted] and Sloan.

Nemeth
Q. Okay. Those two individuals working on the right arm, which [redacted] was not releasing to them, so you applied three or four punches with your right fist, to [redacted]' left kidney area, right?

Kluth
A. Yes.

Nemeth
Q. Okay. Did he then release the arm at that point, [redacted]?

Kluth
A. Shortly thereafter, his arm was brought back.

Nemeth
Q. Okay, and what happened from that point?

Kluth
A. He was handcuffed and hobbled?

Nemeth
Q. Who handcuffed him?

Kluth
A. I don't really remember who handcuffed him.

Nemeth
Q. Whose handcuffs were placed on [redacted]?

Kluth
A. I believe they were mine.

Nemeth
Q. Did you have the handcuffs with you on a belt carrier, or something of that nature?

Kluth
A. Yes.

Nemeth
Q. Okay, did you see the handcuff being accomplished?

Kluth
A. I don't remember.

Nemeth
Q. Okay, alright, so now [redacted] is handcuffed with your handcuffs, what happens next?

Kluth
A.   He's hobbled, and then I get up, and put him back away towards the bars, and I looked down, and I see he's laying on his stomach, so I walked over, turned him over on his side.

Nemeth
Q.   Who applied the hobble to [redacted]?

Kluth
A.   I don't know. I don't really remember who handcuffed, or who hobbled, or--

Nemeth
Q.   Do you know whose hobble it was that was applied to [redacted]?

Kluth
A.   Yes.

Nemeth
Q.   Whose was that?

Kluth
A.   Mine.

Nemeth
Q.   Okay, did you give it to somebody to apply to [redacted]?

Kluth
A.   I don't remember.

Nemeth
Q.   Okay.

Kluth
A.   I had to have given it to somebody because it was my hobble--

Nemeth
Q.   Okay.

Kluth
A.   --or somebody took it off me when I was laying there holding his left arm, but it was my hobble.

Nemeth
Q.   Alright, when the, when you were holding inmate [redacted]' left arm, in control, and applied those punches, did you say anything to [redacted] yourself?

Kluth
A.   No.

Nemeth
Q.   Do you remember using any profanity during the fight at any time, you, yourself?

Kluth
A.   Me, no.

Nemeth
Q.   Yes. Do you remember saying anything along the lines of, "mother fucker," something or another?

Kluth
A.   No.

Nemeth
Q.   Do you remember anybody using that terminology?

Kluth
A.   No.

Nemeth
Q.   Was inmate [redacted] saying, okay the last answer, just in case we didn't get it on tape was, the question was, do you remember hearing anybody, do you remember [redacted] saying anything during the incident?

Kluth
A.   No.

Nemeth
Q.   Was he screaming, or moaning, or anything of that nature?

Kluth
A.   When they were trying to bring the arm, his right arm back, he was kind of like a grunting sound like he was resisting, but he didn't say anything.

Nemeth
Q.   Did you ever hear [redacted] say anything like, "I'm down, I'm down, I give up, I give up," something along those lines?

Kluth
A.   No.

Schwab
A.   (Sneezes)

Nemeth
Q.   Bless you.   Okay, did you see any deputy present in the module with you during the struggle with [redacted] kick [redacted]?

Kluth
A. No.

Nemeth
Q. Did you see anybody strike [redacted] in the groin or testicle area?

Kluth
A. No.

Nemeth
Q. When you rolled inmate [redacted] over, after he had been hobbled, did you notice any injuries to him?

Kluth
A. Yes.

Nemeth
Q. And what were they?

Kluth
A. He had a, a cut above his eye. That was the only thing I really remember seeing.

Nemeth
Q. Do you know which eye?

Kluth
A. No.

Nemeth
Q. Was the cut bleeding?

Kluth
A. Yes.

Nemeth
Q. Did you see any blood anywhere?

Kluth
A. Any blood? Yes.

Nemeth
Q. Where did you see blood?

Kluth
A. On his face.

Nemeth
Q. Anywhere else?

Kluth
A. There was some on the concrete where his, his face had been laying.

Nemeth
Q. Was there any blood along the mop closet area here, this wall?

Kluth
A. I didn't see any.

Nemeth
Q. Okay. Alright, after the incident you ultimately told Sergeant, you initially told Sergeant Van Mosely about the event, is that right?

Kluth
A. Yes.

Nemeth
Q. Okay, and then did you later also tell Sergeant Duncan about the event?

Kluth
A. Yes.

Nemeth
Q. Okay, and when you told Sergeant Duncan about the event, did he ever ask you or anybody to locate any witnesses to the incident?

Kluth
A. When we initially told him, no. I believe he said something about finding witnesses when we were in the sergeant's office.

Nemeth
Q. Did he say that to you, or to somebody else?

Kluth
A. To somebody else.

Nemeth
Q. Do you know who it was?

Kluth
A. Not for sure, no.

Nemeth
Q. Okay. Did Sergeant Duncan tell you to write a report on the event?

Kluth
A. Well, he told me to wait until he contacted Internal Affairs, because they were supposed to roll to him, and after he finally got in touch with them, he told me to go ahead and write the report.

Nemeth
Q. Okay, and how much after the incident did Duncan ultimately tell you to write the report?

Kluth
A. Two and a half hours, approximately.

Nemeth
Q. Did you start doing it after he told you to write the report?

Kluth
A. Yes.

Nemeth
Q. Where did you write the report, where were you located inside the jail?

Kluth
A. Watch deputy's office.

Nemeth
Q. And there was there anybody else in the watch deputy's office also writing reports regarding this event?

Kluth
A. Yes.

Nemeth
Q. Who was that?

Kluth
A. Deputy Sloan and Deputy [redacted]

Nemeth
Q. Okay. Alright, with regard to Sergeant Duncan's instruction to somebody about witnesses, what did, what did he say about witnesses?

Kluth
A. I don't really remember.

Nemeth
Q. Did you ever learn if there were any witnesses to the incident?

Kluth
A. No.

Nemeth
Q. Did you ask anybody?

Kluth
A. I don't remember if I asked anybody specifically or not.

Nemeth
Q. Well, let me ask you this, if somebody had told you there was a witness, would you have listed him on your report, under the witness block?

Kluth
A. Yes.

Nemeth
Q. Is there anybody listed on your first report as a witness?

Kluth
A. No.

Nemeth
Q. In this report here, it appears as though you've written battery on a peace officer, 243.CPC on the charge line, is that true?

Kluth
A. Yes.

Nemeth
Q. Did somebody tell you to do that, or did you select that penal code section yourself?

Kluth
A. Well, I ran the incident by Sergeant Mosely. He was telling me that we weren't going to write a report at all, but then, I don't know how I came to the conclusion, but 243-C applies, so it's what was written under.

Nemeth
Q. Okay, did somebody tell you that, or did you come to the conclusion of 243-C was the appropriate charge?

Kluth
A. Don't remember.

Nemeth
Q. Okay. Did you, yourself, personally, attempt to locate any witnesses to this crime report that you wrote?

Kluth
A. No.

Nemeth
Q. Is there any reason why you did not do that?

Kluth
A. Somebody else was sent up to look for witnesses, and at the time, I didn't think there was a, so I wasn't gonna look for somebody that I didn't think was there.

Nemeth
Q. Okay, remember the inmate in the Baker row shower we talked about earlier?

Kluth
A. Yes.

Nemeth
Q. Do you know where he was during the incident?

Kluth
A. I have no idea.

Nemeth
Q. Well, was he in the Baker row shower when the incident started?

Kluth
A. Yes.

Nemeth
Q. And, was he in the Baker row shower when the incident ended?

Kluth
A. Yes.

Nemeth
Q. So, he was in the Baker row shower during the incident, then, correct?

Kluth
A. Yes.

Nemeth
Q. Did you ever speak to that inmate about witnessing this event?

Kluth
A. No.

Nemeth
Q. Any reason why you did not do that?

Kluth
A. 'Cause I wasn't the one who went up to look for the witnesses, and I didn't go up to look for the witnesses.

Nemeth
Q. Well, you wrote the first report in this crime, didn't you?

Kluth
A. Yes.

Nemeth
Q. Okay, and isn't it your responsibility as the reporting officer to thoroughly investigate the crime and document the events that occurred during it?

Kluth
A. Yes.

Nemeth
Q. Do you believe had that inmate viewed what occurred between you and [redacted], that he would be an important witness in a criminal prosecution with Mr. [redacted] for what he did to you?

Kluth
A. Do I think he would have been an important witness?

Nemeth
Q. Had he seen something, right.

Kluth
A. Personally, no.

Nemeth
Q. You don't?

Kluth
A. No.

Nemeth
Q. You don't think the, the inmate in the shower, had he seen what happened between you and [redacted], you don't think that would be a critical witness for a potential criminal charge against Mr. [redacted]?

Kluth
A. No.

Nemeth
Q. Okay, is there a particular reason why you have that opinion?

Kluth
A. Yes.

Nemeth
Q. What is it?

Kluth
A. I don't really think another inmate's going to turn on another one of his inmates, it's their little bond that they, they have.

Nemeth
Q. Did you ask that inmate what his statement was?

Kluth
A. What inmate?

Nemeth
Q. The inmate in the shower.

Kluth
A. No.

Nemeth
Q. Did you ever interview that inmate and ask him if he saw anything?

Kluth
A. No.

Nemeth
Q. Did anybody involved in this incident, to your knowledge, interview that inmate, and ask him if he saw anything?

Kluth
A. Not that I know of.

Nemeth
Q. Okay. Okay, okay, did Deputy Sloan at some point, you had Deputy Sloan assisting with the inmate's right arm, is that correct?

Kluth
A. Yes.

Nemeth
Q. And, at that point, did you see Deputy Sloan assisting with the right arm?

Schwab
A. What, what page you looking at--

Nemeth
Q. Well--

Schwab
A. --of the report?

Nemeth
Q. --I'm on page four, so, but I'm asking him a question--

Schwab
A. Where do you see the right--

Nemeth
Q. --let's not--

Schwab
A. --where do you see the right arm of Deputy Sloan assisting?

Nemeth
Q. Well, this is, I'm going back to something he said earlier in his interview, that Deputy Sloan and Deputy [redacted] were attempting to secure inmate [redacted]' right arm during the struggle at the point you had the inmates' left arm, and that's why you applied three or four kidney punches to [redacted]' left kidney--

Kluth
A. Yes.

Nemeth
Q. --right, is that, you remember saying that a minute ago?

Kluth
A. Yes.

Nemeth
Q. Okay, at what point did Sloan become involved in, in the incident?

Kluth
A. I, I don't know.

Nemeth
Q. Sloan had been the person in the booth, correct?

Kluth
A. Yes.

Nemeth
Q. And do you know how, how he came to, to leave the booth?

Kluth
A. No.

Nemeth
Q. Do you know whether he was relived or not, in the booth?

Kluth
A. No, not at the time.

Nemeth
Q. You do now, though?

Kluth
A. Yes.

Nemeth
Q. Do you know who relieved him in the booth now?

Kluth
A. It was Deputy Romero.

Nemeth
Q. Right. Okay, why don't you take a look at your report, on page four, middle of the page, where I'm pointing, where it says, at this time, Deputy Sloan, employee number, and Deputy [redacted] and Deputy [redacted] arrived in the module, is that what your report says?

Kluth
A. Yes.

Nemeth
Q. Did you write that?

Kluth
A. Yes.

Nemeth
Q. Is that the time Deputy Sloan arrived in the module?

Kluth
A. No.

Nemeth
Q. Why did you write at this time, Deputy Sloan arrived in the module?

Kluth
A. I don't really remember why I wrote it like that, that's just the way I wrote it.

Nemeth
Q. Well, was that an accurate statement?

Kluth
A. To a point, but not exactly, no.

Schwab
A. Sergeant, we think that Deputy Kluth might have been a little bit shaken up this evening by what happened to him?

Nemeth
Q. Well, I'm giving him an opportunity to talk, and he hasn't said that, you've said that, but he hasn't said that.

Schwab
A. It just seems to me that (inaudible) a perfect opportunity to come out, and get all these facts of the--

Nemeth
Q. We are trying to--

Schwab
A. --(inaudible) produce--.

Nemeth
Q. --if you would only not interrupt, and let me ask me ask my next question, Miss Schwab. Deputy Kluth, I think you said it's not a totally accurate statement, what's not accurate about it?

Kluth
A. Deputy Sloan was already in the module, he was in (inaudible).

Nemeth
Q. So, it was either an oversight that you wrote this, or how did it come that you wrote the statement that we just read into your report?

Kluth
A. I think, basically, what I was trying to state when I wrote this, was that after I had taken him to the floor, the other deputies came over, and assisted me.

Nemeth
Q. Okay.

Kluth
A. Not that they physically entered the module at that time. I think that's what I was, why I wrote it that way. I couldn't tell you for a fact, that was a while ago that I wrote it.

Nemeth
Q. So, I think what you're saying is, your selection of your module is not appropriate to all the deputies, 'cause you referenced three deputies, is that right?

Kluth
A. What do you mean?

Nemeth
Q. Well, is it true, that at this time, as you're writing the report, when you say at this time, that Deputy [redacted] and Deputy [redacted] arrived in the module for the first time?

Kluth
A. Yes.

Nemeth
Q. Okay. But, it's not true that Deputy Sloan arrived in the module for the first time at this point, right?

Kluth
A. He did not arrive with Deputy [redacted] and [redacted]

Nemeth
Q. But that's what this statement says, though, isn't it?

Kluth
A. Yes, it is.

Nemeth
Q. Okay, now was that a mistake on your part?

Kluth
A. It appears so, yes.

Nemeth
Q. Okay. Well, it's 12:30, do you want to take a lunch break now, at this point?

Schwab
A. I would rather continue, if you guys want to continue.

Nemeth
Q. Well, we're gonna, we're gonna need to take a lunch break, and earlier you said you wanted to take it at 12:30. We've probably got, I would say, at least an hour or more of questioning.

Schwab
A. I'd like to try and get through half an hour, and (inaudible) at one o'clock.

Nemeth
Q. Okay, that's fine.

Schwab
A. Can't we look at that much more.

Kander
A. (Inaudible).

Nemeth
Q. Mr. Kander, do you need to--

Kander
A. Yes, I have to.

Nemeth
Q. --leave at this point? Okay, okay, just for the record, Mr. Kander has a previous appointment, and he has to leave the room at this time, so you will not be returning, is that correct, sir?

Kander
A. That is correct.

Nemeth
Q. Okay. Alright, thank you. Okay, do you want to take a break then, or do you just want to continue on to one o'clock?

Schwab
A. Oh, let's see, what do we want to do, we might as well take a break now, a lunch break.

Nemeth
Q. Take a lunch break, okay. We'll, we'll adjourn the interview, it's 1230 hours, we'll resume at, what's sufficient time, an hour?

Schwab
A. At 1:30?

Nemeth
Q. 1:30, okay. Thank you. Okay, we're back on the record, this is regarding IAB case number 008383, we're interviewing subject, Deputy Kluth, just concluded our lunch break, the time now is 1340 hours. Deputy Kluth, prior to taking a lunch break, we were talking about the reports you wrote in this incident. Earlier when you were speaking, you stated that you used three or four punches from your right fist to inmate [redacted]' left kidney area, is that correct?

Kluth
A. Yes.

Nemeth
Q. Did those punches land on his left kidney area?

Kluth
A. Yes.

Nemeth
Q. Did you document those punches in your report?

Kluth
A. No.

Nemeth
Q. Is there a reason why you didn't do that?

Kluth
A. Well, I, when we got in the sergeant's office, and we were told to go ahead and write the paperwork, and I started filling out, and filled out the face page of the force report, and I started filling out my force report, Sergeant Duncan instructed me not to fill out the force report, just to fill out the 49.

Nemeth
Q. Okay, what's a force report to you?

Kluth
A. Force report is basically a, or the force packet is a cover sheet with some information on who was involved, what inmate, myself, and then it's a brief, or, depending on how long it is, the narrative of what happened, and what force I used.

Nemeth
Q. Did you fill something out along those lines?

Kluth
A. I started to, yes.

Nemeth
Q. Okay, do you see it in that packet in front of you?

Kluth
A. No.

Nemeth
Q. Is this the document you were talking about?

Kluth
A. No.

Nemeth
Q. This force report? Did you complete it?

Kluth
A. No, I did not.

Nemeth
Q. How much of it did you complete?

Kluth
A. Not very much. I just started it when Sergeant Duncan told me that I wasn't going to do the force packet.

Nemeth
Q. And the portion that you started, was that the face page, that calls for name and things of that nature?

Kluth
A. No, I completed that already.

Nemeth
Q. Okay, and had you started writing some kind of narrative as to what happened?

Kluth
A. Yes, I did.

Nemeth
Q. Okay, was that submitted to somebody?

Kluth
A. No, because I was told not to write it.

Nemeth
Q. What did you do with it, then?

Kluth
A. I erased what I had, and threw it back in my (inaudible) box to keep the form.

Nemeth
Q. To what?

Kluth
A. To keep the form in (inaudible).

Nemeth
Q. Do you still have the form?

Kluth
A. Yes, I do.

Nemeth
Q. Okay, do you have it available to you today?

Kluth
A. No.

Nemeth
Q. Where is it today?

Kluth
A. I'm not sure where it's at.

Nemeth
Q. But, you do have it?

Kluth
A. I believe so.

Nemeth
Q. Okay, I'm going to direct you to look for it, okay, and then call me on Monday, which would give you the remainder of today, Friday, and the weekend, to locate it, alright?

Kluth
A. Okay.

Nemeth
Q. Call me before the close of business on Monday, okay, before 5 p.m., and let me know if you found it, alright, and if so, we need to take a look at that, okay?

Kluth
A. Okay.

Nemeth
Q. Okay, aside from that report, which you started, but never submitted, because you were told not to, correct?

Kluth
A. Just the narrative, I finished the face pages.

Nemeth
Q. And, you submitted the face page part of it?

Kluth
A. Yes.

Nemeth
Q. Okay, that narrative, did you erase it so that it was blank, or did you leave some words still written on it?

Kluth
A. I don't think there's anything written on it, I'm not sure, though.

Nemeth
Q. Okay, well, take a look and tell me what you find, okay?

Kluth
A. Okay.

Nemeth
Q. Alright. Aside from that form, and this report here, did you write anything else in this incident?

Kluth
A. Besides this packet here--

Nemeth
Q. Referring to your first--

Kluth
A. --the 29th--

Nemeth
Q. --right--

Kluth
A. First report?

Nemeth
Q. --correct.

Kluth
A. The first report and the face page, or the force packet, was, I believe, all I wrote.

Nemeth
Q. Did you write any notes in, in a notebook or on any paper to assist you in preparing this report?

Kluth
A. No.

Nemeth
Q. Okay, okay. Now, again, why is it that it doesn't appear in this report, the narrative of this crime report in front of you, that you punched inmate [redacted] in the left kidney area three or four times with your right fist?

Kluth
A. I started to write the force packet, and I was told not to, I was told just to write the 49.

Nemeth
Q. Okay, well, when you wrote this 49, did you talk about the incident on these four pages of narrative you have here?

Kluth
A. No.

Nemeth
Q. You didn't talk about the force incident in this report?

Kluth
A. The force that I used?

Nemeth
Q. Yes.

Kluth
A. Briefly, I believe I stated that, not specifically, not in the report, no.

Nemeth
Q. Okay, Why didn't you specifically talk about the force you used on inmate [redacted] in this crime report.

Kluth
A. Because I was writing my, the force report, had gotten in the force packet on the force narrative, that's where I understood the force was to be written.

Nemeth
Q. But, you never submitted that, correct?

Kluth
A. That's correct, I did not.

Nemeth
Q. Okay, where did you intend to fully report with all the details, the force you used on inmate [redacted]?

Kluth
A. I intended to write it in my force narrative.

Nemeth
Q. Which you never submitted, correct?

Kluth
A. That's correct.

Nemeth
Q. Okay, since you didn't submit it--

Schwab
A. Why don't you ask him why he didn't submit it?

Nemeth
Q. Well, we already know why he didn't submit it, he was told not to submit it. The question is, why didn't you include it in this report here?

Kluth
A. Well, after the sergeant reviewed the pack, or reviewed the report, he didn't say to put it in, so I, I was under, from the understanding that it was gonna go on the force narrative, since he didn't want that, it wasn't put in here, so, and he didn't correct anything, he correct a couple other things, but he didn't correct that, so I assumed that he didn't want anything.

Nemeth
Q. Okay. Now, you're saying he, who are you referring to?

Kluth
A. Sergeant Mosely is the one who corrected like some of the stuff on the--

Nemeth
Q. Okay, is he the person you submitted this report to?

Kluth
A. The first one, yes.

Nemeth
Q. Was there a second one?

Kluth
A. It went to Sergeant Duncan.

Nemeth
Q. What's the second one?

Kluth
A. Went to Sergeant Duncan, I believe.

Nemeth
Q. No, I mean what is the second one, you're referring to, what do you, what do you mean, the second one?

Kluth
A. Second person to review.

Nemeth
Q. Oh, okay. What academy class were you in, Deputy Kluth?

Kluth
A. 276.

Nemeth
Q. Okay. And where you trained regarding the force policy when you attended the Sheriff's Academy?

Kluth
A. I'm sure I was, yes.

Nemeth
Q. Okay, can you tell me, when you were assigned to custody division upon your graduation, from the academy, were you given some type of training for custody division?

Kluth
A. Well, what do you mean, as far as--

Nemeth
Q. Was there some type of custody orientation training two or three weeks in length, between the time you graduated the academy and the time you began your assignment at Men's Central jail?

Kluth
A. Yes.

Nemeth
Q. Okay, how long was that training? Hold on a second, we have to change our tape. Okay, where we left on is, you stated you attended some training upon your graduation from the sheriff's academy, and prior to your assignment at Men's Central jail, correct?

Kluth
A. Yes.

Nemeth
Q. Okay, do you remember how long that training was?

Kluth
A. I think it was two weeks.

Nemeth
Q. Okay, and during that training, do you remember the topic of the sheriff's department's force policy being discussed?

Kluth
A. Not specifically, no.

Nemeth
Q. Okay. You do remember attending that training, correct?

Kluth
A. The jail ops, yes.

Nemeth
Q. Okay. Upon your assignment to Men's Central jail, did you go through a training process with a training officer?

Kluth
A. Yes.

Nemeth
Q. Do you remember signing off some forms that said you read the Custody Division Training manual, and the, and referenced portions of the department's manual pertaining to the force policy? Do you remember signing a form that said something along those lines?

Kluth
A. Not specifically, no.

Nemeth
Q. Okay. Alright, before today's over, we'll, we'll show you a document, and ask you if you signed it. Now, as you worked at Central jail, did you attend briefings where there were recurrent briefing topics discussed?

Kluth
A. Yes.

Nemeth
Q. Okay, do you remember force, the sheriff's department's force policy ever coming up during any of those briefings?

Kluth
A. Not anything specific, no.

Nemeth
Q. Okay. I remember dates and times, where it's indicated that you were present at briefing for force training, and recurrent briefings were discussed. Do you have any independent recollection to say that you weren't there on those dates and times?

Kluth
A. No.

Nemeth
Q. Tell me briefly, you don't have to quote, fine if possible, what is your understanding of the sheriff's department's policy regarding the use of force?

Kluth
A. Basically, just using the amount of force to overcome the resistance, I mean it's real basic and simple, but, to me, that's what it means.

Nemeth
Q. Okay, that's fine. Tell me what your understanding is of the department's policy about reporting force that you used, as a deputy sheriff.

Kluth
A. That it is to be reported.

Nemeth
Q. To whom?

Kluth
A. First it would be to your, to your floor sergeant, and then to either the watch sergeant or watch commander.

Nemeth
Q. Okay, and what's your understanding as to how it's supposed to be recorded?

Kluth
A. Basically, you would go down, or you'd verbally run it by, that was, you know, the watch sergeant, watch commander, sergeant, floor sergeant, whatever, whoever it is that, you know, you're working for that night.

Nemeth
Q. Okay, and is it later, is it your understanding that later force is to be documented in written form, also?

Kluth
A. Yes.

Nemeth
Q. Okay. And when you document force in written form, what's your understanding of how you're supposed to accomplish that?

Kluth
A. Just fill out the narrative, or you fill out your force packet, and you're the handling deputy, then you fill out the face page, and if your not then you just fill out your name--

Nemeth
Q. Okay.

Kluth
A. --and you just report what you, you know, what you used.

Nemeth
Q. Alright. What about in the case where a crime report is written? Are you aware of what the department's policy states specifically to an instance like this one, where a crime report is prepared?

Kluth
A. No, no I'm not.

Nemeth
Q. Are you aware that the department's manual of policy and procedures requires you to be familiar with the procedures of the department?

Kluth
A. Yes, I am.

Nemeth
Q. Okay.

Schwab
A. Does that include sergeants as well?

Nemeth
Q. Sure does. Are you aware that when you prepare a crime report in connection to an incident involving your personal use of force, you are to fully detail with extreme specif, specificity, as to what you did, what your actions were, with regard to the force you used.

Kluth
A. In the 49?

Nemeth
Q. In the crime report.

Kluth
A. In that force report?

Nemeth
Q. Yes.

Kluth
A. No, I'm not aware of that.

Nemeth
Q. You aren't aware of that?

Kluth
A. No. (Inaudible) is that C.J., excuse me, we always just filled out the force packets, so I'm not, I haven't written that

many 49's to begin with, so I was, I usually depend on the sergeants to review it, and tell me what, you know all the mistakes and like I've worded something that should be worded, they can tell me if it can be worded better then, I'll, I'll change it.

Nemeth
Q. Have you been involved, prior to this incident, in any other force events at Central jail?

Kluth
A. Yes.

Nemeth
Q. And, in any of those other incidents, did you ever prepare a Shad 49, first report of a crime, as you did in this incident?

Kluth
A. I don't believe so.

Nemeth
Q. So, what you're saying is, in two years and eight months being assigned to the jail, this was the very first time you ever prepared a crime report like this, a Shad 49, in connection with a force event that you were personally involved in, as using force?

Kluth
A. I believe so.

Nemeth
Q. Okay, when you submitted a report to the sergeant, you said he made some corrections, or told you to make some corrections, which is it?

Schwab
A. What's the difference?

Nemeth
Q. Well, did the sergeant make the corrections, or did he--

Schwab
A. Oh.

Nemeth
Q. --send it back to you, and tell you to make corrections?

Kluth
A. He told me what changes he wanted to be made.

Nemeth
Q. Okay, who was that?

Kluth
A. Sergeant Mosely.

Nemeth
Q. Okay, and what changes did Sergeant Mosely tell you he wanted made?

Kluth
A. The only one that I specifically recall, as far as the changes he had made, and it's right here on page four at the top, first paragraph, the way I, and I don't remember exactly what change it was, but I know it was something to do with the word momentarily, I think I had like, briefly, and had that kind of switched around, and he goes, "Well, that's not clear," he goes, "it doesn't really make sense," he goes, "why don't you change it like," and he told me this is the way he wanted it. He goes, "This is the one way you can put it," and, it sounded good, and he said so, that's the way I wrote it.

Nemeth
Q. What you're saying is you think you had originally had written the word, briefly, instead of, momentarily?

Kluth
A. I don't really think so, but--

Nemeth
Q. Okay, you were stating, before we ran out of tape, that you noticed in this paragraph, because what?

Kluth
A. Because of the word, momentarily, I remember that.

Nemeth
Q. Okay. Anything else besides that, that change that you just talked about?

Kluth
A. That he suggested that I word differently, or what (inaudible).

Nemeth
Q. Yeah, let's work on him first, right.

Kluth
A. Not that I remember.

Nemeth
Q. Okay, so Sergeant Van Mosely, asked you to change, perhaps change the word briefly to momentarily, and is this your writing done momentarily here?

Kluth
A. Yes, it is.

Nemeth
Q. Okay.

Schwab
A. Well, and he stated that he, he stated that he had phrased it differently, and that the sergeant told him it didn't make sense how he had phrased it, and he suggested another possibility, and that's (inaudible). You narrowed it to a specific term, he said he didn't (inaudible).

Nemeth
Q. Okay, that's, that's fair enough. Any other changes that Sergeant Mosely suggested?

Kluth
A. Not that I remember, I, he could have, but then, you know, I don't remember--

Nemeth
Q. Alright.

Kluth
A. --if he did or not.

Nemeth
Q. Any other changes that any, anybody else suggested you make?

Kluth
A. Not that I remember.

Nemeth
Q. Any changes you personally made after you initially submitted the report?

Kluth
A. No, I don't believe so.

Nemeth
Q. Okay. Let me just try to restate, make sure I have an understanding of why you did not list in this narrative, when you're describing the, did you understand it to be, the purpose of this report, for you to describe fully the event that happened between you and [redacted], the assault that he put on you, 'cause that's you charged him with on this report. Did you understand that was the purpose in writing the narrative on this report?

Kluth
A. I understood the purpose of writing the report was to describe what happened.

Nemeth
Q. Okay, and do you make every effort to write an accurate crime report, police report?

Kluth
A. Yes.

Nemeth
Q. Okay, and why did you not, then, if you were attempting to write an accurate, detailed report, not list the fact that you punched the inmate three or four times with your right fist?

Kluth
A. Like I stated before, the way we do the force is on the force narrative, when I was told not to do that, then I just wrote a description of what happened.

Nemeth
Q. I understand that part of it, but even--

Schwab
A. That's, that's answering your question, that's his answer to your question.

Nemeth
Q. Okay, I can, I can ask a couple more clarifying questions, because aside from that, whether you submitted that force report or not, this report is a separate, stand alone report. This is a report that details the event that happened where Mr. [redacted] is being charged with assault on a peace officer, and which you are, as you just said a minute ago, under the impression that you're supposed to detail the events of that incident, correct?

Kluth
A. As far as my understanding of that report, no, it's not separate by itself, because the force packets, packages accompany that report.

Nemeth
Q. So, the reason, did you then, intentionally choose to leave that out of this report, is that what you're telling me, 'cause you thought it should be in the force report?

Kluth
A. That's where it usually goes.

Nemeth
Q. Okay, did you intentionally leave out the fact that you punched the inmate three or four times with your right fist?

Kluth
A. Intentionally, no.

Nemeth
Q. Well, did you describe every thing else about the incident in this report? As far as your interaction?

Kluth
A. Basically, basically, not specifically. I didn't say, you know, down to the second what happened, but--

Nemeth
Q. Well, I'm not asking down to the second, what I'm saying is, did you describe your interaction with the inmate, with inmate [redacted], as far as struggling, how he had you in a hold, how you momentarily freed yourself, or briefly freed yourself, and then how you, how you regained a hold on you, and how you went to the ground, did you explain all those things?

Kluth
A. Yes.

Nemeth
Q. Okay, why did you leave out the part about your punching him?

Kluth
A. Like I said before, I thought that went into the force packet.
Nemeth
Q. Okay.

Kluth
A. So, I guess, yes, I did leave it out of this one, because it, I figured it went into the other one.

Nemeth
Q. Okay, but you already said you didn't submit the other one, the sergeant told you forget it, don't submit the other one, so where did that ever get written?

Kluth
A. Where did what ever get written?

Nemeth
Q. The punching, the three to four punches, to inmate [redacted]' left kidney, that you said you did with your right fist?

Schwab

A. Sergeant, he can't help it if the sergeant told him not to.

Nemeth
Q. I understand, but I'm just saying, what's he's using is, what he's stating is, the reason he didn't it in this report, was because he was writing it in the force report. But what he says also is, but I was told to forget to write the force report, and not write a narrative on that, and just write a narrative on this, so I'm asking where, then, would it be ever documented?

Kluth
A. It's not.

Nemeth
Q. And is it your understanding that force is supposed to be documented in a narrative, isn't that what you said earlier?

Kluth
A. Yes.

Nemeth
Q. Okay, so in this case you--

Schwab
A. Did you try to do that?

Kluth
A. Yes, it was verbally given to both Sergeant Mosely, who reviewed it, and to Sergeant Duncan, who reviewed it. They both knew what happened, because I had told them what had happened.

Nemeth
Q. Okay, when you explained it to them verbally, did you tell them that you punched the inmate in his left kidney with your right fist three or four times?

Kluth
A. Yes, I did.

Nemeth
Q. Okay, and what you're saying is, you didn't list it in this report, right, it's obvious 'cause the words in this report stop. And, I guess what I'm asking you is, you already said it's your understanding that force is supposed to be documented, and in this case, you thought it was going to be documented on a force package, but then you were later told by a sergeant not to write that force package, and yet you didn't include it in this. And my question to you is, where is it documented then, that you punched the inmate three or four times with your right fist?

Schwab

A. He already answered that question, Sergeant.

Nemeth
Q. Okay, let him, let him answer.

Kluth
A. It's not documented.

Nemeth
Q. Alright, and why didn't you document it here? Please answer.

Kluth
A. Like I said before, I'm used to doing the force on the force packet, on the force narrative. I didn't know that once, that, once he said not to do that, I just wrote the 49, I just didn't put it in.

Nemeth
Q. You didn't know that, to document it here is that what you were saying?

Kluth
A. Yeah.

Nemeth
Q. Okay. Alright. Alright, let's take a second and go back to the incident here, right after inmate [redacted] is handcuffed and hobbled, and I think you said you were the, the person who turned the inmate on his side, is that right? And, you did it to insure proper breathing as per the procedure, is that correct? Okay, you're nodding your head, the tape won't pick that up.

Kluth
A. Yes, sorry.

Nemeth
Q. No problem. Alright, so, when you did that, who was, who was around the inmate, besides yourself?

Kluth
A. Around him, there was nobody around him.

Nemeth
Q. Okay, who was in the sally port area of module 4400 here?

Kluth
A. I don't specifically remember who was there.

Nemeth
Q. Did you see Deputy Sloan there?

Kluth
A. I don't specifically remember seeing any one person, I was pretty tired at the time, and I was kind just kind of hunched over.

Nemeth
Q. Okay, alright. At some later point, did you learn who was present in the module there, during the incident?

Kluth
A. Yes.

Nemeth
Q. Okay, when was that, that you learned that?

Kluth
A. Shortly after, I mean, shortly after we all, after he was handcuffed and hobbled, we turned him over, shortly after that.

Nemeth
Q. Five or ten minutes, or more than that, less than that?

Kluth
A. I'd say less than five minutes.

Nemeth
Q. Okay, and who did you learn, then, less than five minutes later, who did you learn was all present there?

Kluth
A. Who did I learn was, who was involved in this was the four of us, myself, Deputy Sloan, Deputy [redacted] and Deputy [redacted]

Nemeth
Q. Who was, who relieved Sloan so that he could come out and get involved?

Kluth
A. Deputy Romero, I believe.

Nemeth
Q. And you learned that the same time we're talking about now, less than five minutes after the event?

Kluth
A. No.

Nemeth
Q. When did you learn of that?

Kluth
A. I believe it was when we were down in the sergeant's office, and I was starting on, on the report, I believe, I don't re, I don't remember it specifically, but I believe it was then.

Nemeth
Q. Did you ever come inside the module 4400 control booth to use the phone, call the clinic, or anything like that?

Kluth
A. Yes.

Nemeth
Q. Did you see Romero then?

Kluth
A. I don't remember.

Nemeth
Q. Okay, and you say you think you learned about Romero, you don't remember for sure when, but what did you just say a minute ago?

Kluth
A. When we were down in the watch deputy, watch sergeant's office.

Nemeth
Q. Okay, and how did you learn, somebody mention it down there, or--

Kluth
A. I, I don't remember.

Nemeth
Q. Okay. How about anybody else, besides you said, [redacted] Sloan, Romero, anybody else?

Kluth
A. Not that I can remember, remember.

Nemeth
Q. Well, did you later learn anything about Deputy Kammer being present?

Kluth
A. No.

Nemeth
Q. Never heard about that at all?

Kluth
A. No, sir.

Nemeth
Q. How about Deputy Broad?

Kluth
A. No.

Nemeth
Q. How about Deputy Barrett?

Kluth
A. No.

Nemeth
Q. When you later learned that Romero had been involved, when did Romero come in?

Kluth
A. I don't know. I know there was other people, pretty much after I had turned him over, after I had turned [redacted] on his side, I knew there was other people in there, that had came in after we got him hobbled and on his side, but I don't remember who it was.

Nemeth
Q. Well, did you later learn from talking to Sloan that Romero came in and relieved Sloan so he could come out?

Kluth
A. I don't know if I got that from Deputy Sloan, or from somebody else, I don't remember.

Nemeth
Q. But, you later learned that to be the situation, correct?

Kluth
A. Yeah.

Nemeth
Q. Okay, when you went down to report to the watch commander, Sergeant Duncan, did you ever mention that Deputy Romero had relieved Sloan in the booth?

Kluth
A. No. 'Cause I had, I didn't know that.

Nemeth
Q. Didn't know that. How about when you wrote this report, does it mention that Deputy Romero appeared in the module to relieve Deputy Sloan?

Kluth
A. No.

Nemeth
Q. Why not?

Kluth
A. I don't know if I knew it at the time, I was writing the report, or if I just didn't put it in.

Nemeth
Q. Could there be a reason why you wouldn't put it in?

Kluth
A. There wouldn't be a reason that I wouldn't put it in, or, no, I can't think of a reason I wouldn't put it in.

Nemeth
Q. Okay. Did you ever see Broad, then, in the module? 'Cause you said later, you know, that a lot of people came after the inmate was hobbled, did you ever see Broad as one of those people, Deputy Broad?

Kluth
A. No, I didn't.

Nemeth
Q. How about Deputy Kammer?

Kluth
A. No.

Nemeth
Q. How about Deputy Barrett?

Kluth
A. No.

Nemeth
Q. Okay, Alright, when you first went to the jail, and went on training status, and had a training officer assisting you, how long did that period last?

Kluth
A. It was, let's see, I think about three months.

Nemeth
Q. Three months, and that was, was that immediately after you went through this two week custody training course we talked about earlier?

Kluth
A. Yes.

Nemeth
Q. And, during your training process, both in that class, and with your training officer, were you ever instructed as to any particular jail procedures for safely dealing with recalcitrant inmates?

Kluth
A. Generally, yes.

Nemeth
Q. And what were you trained?

Kluth
A. As far as what?

Nemeth
Q. As far as what, what I just asked you about, how to safely deal with a recalcitrant inmate?

Schwab
A. Do you want a specific scenario?

Nemeth
Q. No, I just want--

Schwab
A. Just in general.

Nemeth
Q. Well, in general, what is, what is the general rule that was trained to you, when you confront or deal with a recalcitrant inmate?

Kluth
A. What do you mean by that? Define that.

Nemeth
Q. Okay, when you were on training status at the jail, and you went to the custody training course, did anybody ever talk about procedures, officer safety procedures, on how it, you, as a deputy in custody division, should, should contact an inmate who has demonstrated an unwillingness to follow instructions.

Kluth
A. For an inmate who is unwilling to follow instructions, it depends on what he's, what he's doing. I mean, that's just pretty broad.

Nemeth
Q. Okay.

Kluth
A. If you mean, if you mean if he's being, you know, violent, or whatever, when you're going to go up to contact him, then the key thing is to keep him locked down, get enough people there to handle it, and then do it, but as far as inmate contacts, they happen all the time.

Nemeth
Q. Okay. What I'm referring to, is, well, let's, let's look at this scenario here, this situation we're investigating. You work in a high, moderate module that's classified, that has inmates in it classified as high moderate inmates, meaning they are accused of serious felony crimes, and also in that module, are individuals who are receiving medication, and who may be mental observation patients.

Schwab
A. No, that's not what he said.

Nemeth
Q. That is what he said earlier.

Schwab
A. No, you said mental observation--

Nemeth
Q. Okay, and he said, yes.

Schwab
A. --you asked if they could know, now you didn't ask that earlier.

Nemeth
Q. Okay.

Schwab
A. It's my understanding that mental observation patients are addressed differently.

Nemeth
Q. Okay.

Schwab
A. Maybe you should ask this deputy that.

Nemeth
Q. Okay.

Schwab
A. You asked him if he could be on, if they could be on psychiatric medications.

Nemeth
Q. Right. Is that--

Schwab
A. That's not the same thing as mental obs.

Nemeth
Q. --okay, alright, is it possible they're on psychiatric medication in this module?

Kluth
A. I have no idea what kind of medication they're on, I know they're on medication.

Nemeth
Q. Okay. Let's go back to this situation here. An inmate, in this module, well, we've already discussed about the high moderate classification, and the fact that many inmates in this module are receiving medication, an inmate has refused to, under these circumstances, acknowledge your directions to go into the cell, or to go into the shower, six to eight times, and then when you direct him to go against the wall, he doesn't fully comply with your instructions, and you're continuing instructions as you get close to him, is there any particular procedure that was trained to you when you were on training in the jail, when you went through custody training, as to how to deal safely, with this kind of a situation.

Kluth
A. Specifically, no.

Nemeth
Q. Were you ever taught that when you confront a recalcitrant inmate, you should have back up deputies present, and immediately available to assist you, should something occur?

Kluth
A. Yes.

Nemeth
Q. Okay, did you do that in this case?

Kluth
A. By the time I, time I found out that he was dangerous to me, was too late, as far as contacting him, and bringing him off the row, having him stand against the wall, even though he had disregarded the orders I'd given him on the row, it happens all the time. Just because you tell an inmate what to do, it doesn't mean he's gonna do it, but it doesn't mean he's a problem, either.

Nemeth
Q. Well, why did you bring him off the row in the first place?

Kluth
A. To talk with him.

Nemeth
Q. For what reason?

Kluth
A. To find out why he wasn't locking it down.

Nemeth
Q. Why he wasn't listening to your instructions?

Kluth
A. Yes.

Nemeth
Q. Okay.

Schwab
A. Have you ever done that before?

Kluth
A. Yes. Nightly, several times a night.

Nemeth
Q. Okay. Alright, we talked about, when you rolled the inmate over, you noticed there was some bleeding from a cut over one of his eyes, is that correct?

Kluth
A. Yes.

Nemeth
Q. Do you know how the inmate sustained that injury?

Kluth
A. I believe it was from when we hit the floor, but I didn't see it happen, so I don't know.

Nemeth
Q. Did you ask any other deputies involved if they knew how that happened?

Kluth
A. No.

Nemeth
Q. Now, you wrote your report, and you said earlier you read the supplemental reports prepared by Deputy [redacted] by deputies [redacted] and Sloan, correct?

Kluth
A. I looked them over, yes.

Nemeth
Q. Okay. Does it reflect in any of their reports, or your's, how the inmate [redacted] got that injury over his eye?

Kluth
A. I'd have to look them over again.

Nemeth
Q. Go ahead and look them over.

Schwab
A. Look, why don't you just tell, Sergeant, the documents speak for themselves--

Nemeth
Q. That's right.

Schwab
A. --it's not a test.

Nemeth
Q. Well, he wanted to look them over, I'm not gonna--

Schwab
A. He can have all the time he wants to look it over, but this is not going to be a test for the deputy--

Nemeth
Q. Sure.

Schwab
A. --as to what he (inaudible).

Nemeth
Q. Sure, no test, but I'm not, certainly not gonna restrict him in his ability to look over his statements.

Kluth
A. I don't believe I, when I looked at them before, I don't believe I saw anything that stated a specific thing that caused the fight.

Nemeth
Q. Okay, when's the first time you read these other reports, submitted by [redacted] Sloan, and [redacted]

Kluth
A. The first time I read, the first reports that they wrote?

Nemeth
Q. These reports that you're looking at right now, these supplemental crime reports, call them whatever you will, these reports in front of you.

Kluth
A. The first time I looked at them, I don't know.

Nemeth
Q. Was it the night of the incident, when the deputies submitted them?

Kluth
A. Probably was, with Sloan and [redacted]'s, 'cause we wrote our stuff in the watch deputy's office, but I think Deputy [redacted] wrote his upstairs, so I don't even, I don't know if I read it that night or not, could have.

Nemeth
Q. Okay. Did you ever discuss what that, what the other deputies involved, how that inmate sustained that injury, and should it be documented in somebody's report?

Kluth
A. I don't believe so.

Nemeth
Q. Okay. How about any other injuries to the inmate, did you ever learn of any other injuries to the inmate?

Kluth
A. No.

Nemeth
Q. You never learned of another injury to the inmate, even now, as we sit here today?

Kluth
A. You're talking, okay, that night I didn't learn of any more. The next day, I had heard rumor from somebody that he lost a testicle.

Nemeth
Q. Okay.

Kluth
A. Or they had to remove a testicle, or something at, at LCMC.

Nemeth
Q. Do you have any idea how the inmate sustained that injury?

Kluth
A. I have no idea.

Nemeth
Q. Okay, so, during the use of force, is there anything that you saw that could have caused that injury to the inmate's testicle?

Kluth
A. Not that I saw, no.

Nemeth
Q. Okay, and you were involved in the incident, you were concentrating on the inmate's left arm, or you had his left arm, and delivered a couple punches, three or four punches to his left kidney, correct?

Kluth
A. Yes.

Nemeth
Q. So, your attention was in that area, or were you looking anywhere else?

Kluth
A. In that basic area, I'd say.

Nemeth
Q. Okay. Would you have seen if, if Deputies had kicked the inmate in the groin area?

Kluth
A. I'd have to say I would have, I mean I was kind of facing towards his feet, so--

Nemeth
Q. Hold on a second, I thought we'd have to change the tape. Okay, right before the tape ended, you said you'd have to say you would have, is that what you said?

Kluth
A. Yes.

Nemeth
Q. And referring to, you'd have to, would have seen somebody kick the inmate had they done that, is that correct, is that what you were referring to?

Kluth
A. Yes.

Nemeth
Q. Did you see any deputy kick the inmate?

Kluth
A. No.

Nemeth
Q. Is it possible a deputy kicked the inmate, and you didn't see it?

Kluth
A. When we were on the ground, I don't think it was possible to kick the inmate.

Nemeth
Q. Okay, now before you were on the ground, was there anybody else there besides you and inmate [redacted]?

Kluth
A. No.

Nemeth
Q. Okay. Did you ever see a inmate or trusty on this pay phone here, at the front of module 4400?

Kluth
A. No.

Nemeth
Q. Did you ever see an inmate inside this laundry room?

Kluth
A. No.

Nemeth
Q. Did you ever see an in, a trusty inmate in front of the Charley row gate?

Kluth
A. No.

Nemeth
Q. Did you ever take note of an inmate standing on the Denver row tier, near the stairs? You already said you knew about the inmate in the shower here, correct?

Kluth
A. Yes.

Nemeth
Q. Do you know, other than in the shower, do you know where he was during, in the, exactly, in the shower during the incident?

Kluth
A. I have no idea.

Nemeth
Q. You never spoke to that inmate, did you? The inmate in the shower, the Baker row shower?

Kluth
A. No. Other than telling him to get into the shower.

Nemeth
Q. Right, no I mean after the incident.

Kluth
A. After, the, no.

Nemeth
Q. And, you originally did tell him to go in the shower, didn't you?

Kluth
A. Yes.

Nemeth
Q. That inmate, and the reason was he was roaming, he left his cell in an unauthorized fashion, right?

Kluth
A. Yes.

Nemeth
Q. And what's, you briefly touched on it earlier, but what is the, the purpose in placing that inmate in that shower, what, what does that accomplish?

Kluth
A. It gets him in a secure area.

Nemeth
Q. Okay, and how long does the inmate stay in the shower?

Kluth
A. Until I can get a prowler or somebody to come and relieve me, to find out why he wasn't locking it down.

Nemeth
Q. Okay, is that something similar to what you were doing with [redacted]?

Kluth
A. That's what I was attempting to do with [redacted].

Nemeth
Q. Okay, and when you find out why an inmate's locking it down, it requires your face to face contact with them, in a, in a, an area where no bars separate you and them, is that your normal practice?

Kluth
A. I, I don't know what you mean.

Nemeth
Q. Okay, is it your normal practice when you're questioning an inmate, why they're not following your directions, to deal with them in an area like the sally port, where there's nothing between you and them, should they choose to attack you?

Kluth
A. Depends on where I'm working, and depends on the circumstances.

Nemeth
Q. Okay. Do you know Deputy Romero?

Kluth
A. Yes.

Nemeth
Q. And can you describe your relationship with him for me?

Kluth
A. I know him, not real well, but--

Nemeth
Q. Did you go to the academy together?

Kluth
A. No.

Nemeth
Q. Do you see him socially?

Kluth
A. I've been, I've been like to one thing or something like that, I never did really talk with him.

Nemeth
Q. One off duty occasion, or something, is that what you're talking about?

Kluth
A. Yes.

Nemeth
Q. Is there anything that ever transpired between you and Romero, that would make him have some kind of reason to make up a story that would potentially look bad for you, or get you into trouble?

Kluth
A. Not that I know of, no.

Schwab
A. Did he do that, did he make up a story that made Deputy Kluth look bad?

Nemeth
Q. Well, that's why I'm asking Kluth if he's aware of some reason this deputy would lie.

Schwab
A. I'm, I'm asking you, did Deputy Rom, Romero make statements that are different than what Deputy Kluth has made?

Nemeth
Q. Yes, he has, he made statements different, but earlier, what you asked is did he make up a story. All I'm stating is Deputy Romero was present at the incident, according to him, and he saw, he saw events unfold a little differently. He saw the inmate kicked, did you see the inmate kicked?

Kluth
A. I didn't see him get kicked.

Nemeth
Q. Do you have any idea how the inmate lost his testicle?

Kluth
A. I have no idea.

Nemeth
Q. Okay. Alright, Sergeant Gjendem?

Gjendem
Q. Yeah. In the module, 4400, on the control booth right here, are there mirrors placed strategically inside 4400 that avail you to see down these rows down here, down below, some convex mirrors?

Kluth
A. Yeah, there are mirrors there.

Gjendem
Q. Okay, where are the mirrors at?

Kluth
A. I don't remember, they don't work that well.

Gjendem
Q. But there are mirrors?

Kluth
A. I believe so.

Gjendem
Q. Okay, there are mirrors, or you believe so, or--

Kluth
A. I believe there was mirrors, I don't specifically remember, there are mirrors throughout the jail in different parts, I don't specifically remember seeing or remember any mirrors in 44. I know they don't work that well, almost anywhere.

Gjendem
Q. In order for you to see the inmate, right, outside the module window there, down below, would you have to get up right next to the window and look straight down?

Kluth
A. That's what I did, yeah.

Gjendem
Q. That's what you did, and you were able to see him. Was he standing with his back against the wall, or--

Kluth
A. I don't remember how he was standing.

Gjendem
Q. You said he, I believe you said he was trying to hide from you down there, how was he trying to hide, did he lay down on the floor, or anything like that?

Kluth
A. No, he wasn't laying down, he was standing against the wall, but I don't know if it was, how he was standing there.

Gjendem
Q. Okay. Was he fully clothed?

Kluth
A. I don't remember, I think he was.

Gjendem
Q. Shirt?

Kluth
A. I believe so.

Gjendem
Q. Did he have pants on?

Kluth
A. Yes.

Gjendem
Q. Did he have shoes on?

Kluth
A. I don't know.

Gjendem
Q. Possibly shower shoes? Did you open the, the Baker row shower gate, open it up and close it several times in order to get the inmate into the, in order to get [redacted] inside the shower area, or did you just have it, have it stay open?

Kluth
A. I don't remember.

Gjendem
Q. You don't remember. And, you said you didn't have a radio, is that correct?

Kluth
A. No, I did not.

Gjendem
Q. After you went outside the, the module, control booth module, and the control booth area here, and you went over there in front of the Baker row, and you talked to [redacted], was he still trying to, was he still trying to hide down here, when you first saw him?

Kluth
A. He was kind of, he was over here in this position, that W-2, and he was kind of like half hiding, and half not. I think he, he knew I came out or whatever, so he was, he wasn't as close to the control booth, and he wasn't around the corner as much as it was when I was in the control booth. So, I don't know if he was trying to hide or not.

Gjendem
Q. Did you see Sloan at all inside the, when you were talking to the inmate from in front of the Baker row gate, did you see Sloan inside the module?

Kluth
A. No.

Schwab
A. He said, "I don't know."

Gjendem
Q. Okay, do you remember how many times you told, when you were standing in front of the Baker row gate, you told the inmate to get inside the shower area here, I believe you said six to eight times, but when you were standing in front of the Baker row gate here, and you told him?

Kluth
A. I didn't--

Gjendem
Q. Six to eight total, was your number, I believe earlier.

Kluth
A. I told him to get into his cell, and I told him to get into the shower--

Gjendem
Q. Yeah.

Kluth
A. --once I came out here, I don't, I didn't tell him to get in the shower.

Gjendem
Q. You didn't tell him at all to get inside the shower area?

Kluth
A. I don't believe I did, no.

Gjendem
Q. Okay. And at that time, was this gate closed or open? The shower?

Kluth
A. I don't remember.

Gjendem
Q. But, when you asked him to come out, you're not certain if that gate was open or closed (inaudible) into the showers?

Kluth
A. I don't remember.

Gjendem
Q. Now, you were concerned about your safety all the time you were here, because you just generally keep these doors locked, is that correct, these gates locked, correct?

Schwab
A. That's putting words in his mouth, do you want, which question do you want him to answer?

Gjendem
Q. Are you concerned about your safety when you go to work?

Kluth
A. Yes.

Gjendem
Q. You are? But you ended up, you opened this gate here to the Baker row, or the gate came open, and you had the inmate come out, correct?

Kluth
A. Yes.

Gjendem
Q. And you were gonna try and put him on the wall over here?

Kluth
A. No, I told him to go stand and face the wall.

Gjendem
Q. Okay, face the wall. Did you ever tell him to put his hands on the wall or anything like that, or just face the wall?

Kluth
A. I don't remember exactly what I told him, but it was to the effect of facing the wall, I don't remember if I told him to put his hands up there, or not. I don't remember.

Gjendem
Q. Now, once you saw the, the crazed look on the inmate's face, here at K-2, where you were at, were you still concerned for your safety at that point?

Kluth
A. What do you mean, still?

Gjendem
Q. Were you as concerned for your safety over here when you pulled him out, you said.

Kluth
A. No, I did not.

Schwab
A. He didn't say that, sergeant.

Kluth
A. When I was at K-1, he didn't appear to be any problem.

Gjendem
Q. Okay. Can I get you to look at your report, page three, second paragraph?

Kluth
A. Okay.

Gjendem
Q. It says, "Then, for my safety."

Kluth
A. Yes.

Gjendem
Q. And what does it say after that?

Kluth
A. "I ordered suspect [redacted] to face the wall, when I talked to him."

Gjendem
Q. Okay, so you were, you were concerned for your safety when you were here, and you ordered him against the wall over here by the laundry room, correct?

Kluth
A. I'm sorry, restate that please?

Gjendem
Q. When you were standing over here by the Baker row gate, and you had ordered the inmate to go over to the wall, were you concerned for your safety at that point, as your report states?

Schwab
A. The report (inaudible).

Kluth
A. My report doesn't state that.

Schwab
A. "That he was concerned for his safety," that is your words, those are your words, he uses the word, "safety," in his report, but he doesn't say, "I was concerned for my safety."

Gjendem
Q. Well, the report speaks for itself, what it says is, "Then, for my safety, I ordered." So, I mean, I guess that speaks for itself.

Schwab
A. I think so.

Gjendem
Q. Okay, okay. Were you still concerned for your safety when you were here at K-2?

Kluth
A. Like I, like I said before, I wasn't concerned at K-1, as I walked over, now, there's a, in about the area of K-2, as I'm walking towards the inmate, I saw the look, which heightened my concern, and as far as moving him over here for my safety, that's purely an officer, officer safety type thing that you always do, it's just a precaution. It doesn't mean he was causing any problems, which he wasn't, to me he looked fine, it didn't look like anything was going to go wrong, just wanted to move him over to the wall, have him face the wall, and talk with him.

Gjendem
Q. Did it ever enter your mind, enter your mind to yell to Sloan inside the booth, "Hey, give me some back up over here," or anything like that?

Kluth
A. No.

Schwab
A. This was at K-2?

Gjendem
Q. Yes, at K-2, or at any time, did you ever do that at anytime during the event? Did you ever say to Sloan, "Get me some back up," or anything at anytime during the event?

Schwab
A. Just for the record, that's not what Sergeant Gjendem asked, he said, "Did it occur to him to ask."

Gjendem
Q. That's true, that's right, and I'm asking--

Schwab
A. And you're (inaudible).

Gjendem
Q. --I'm asking another question, I'm asking a different question. Did you, at any time, yell get me some back up to Deputy Sloan?

Kluth
A. Well, after he was choking me, I really couldn't yell.

Gjendem
Q. Okay, before he started choking you, then?

Kluth
A. It happened too quickly. There wasn't enough time to do anything.

Gjendem
Q. From the point you saw the wild, crazed look in his eyes, and his face, till the time he jumped you, you never said a word, is that right?

Kluth
A. That's correct.

Gjendem
Q. Okay. Okay. Your next paragraph in your report. "I believe it says, I then grabbed his right shoulder, to turn him away from me." Is that an accurate statement?

Kluth
A. No.

Gjendem
Q. Tell me how it's not accurate.

Kluth
A. Well, it should be, "I attempted to grab."

Gjendem
Q. "I attempted to grab?"

Kluth
A. Yeah, because I never, I never actually touched him, not when I was trying, trying to get him, you know, to face the wall, I, I never actually touched him.

Gjendem
Q. Can you tell me why this says, "I then grabbed his right shoulder?"

Kluth
A. Just a mistake on my part.

Gjendem
Q. Is it an intentional mistake?

Kluth
A. No.

Gjendem
Q. Are there any other mistakes in this report?

Kluth
A. Not that I know of.

Gjendem
Q. Next thing it says, as I tried to turn him towards the wall, would you explain to me what you mean, you tried to turn him, is that when you had a hold of the shoulder?

Kluth
A. I told you I didn't have a hold of him. I hadn't touched him, but as I tried to get him to turn, by, as I was going to go move him, and I'm telling him to face the wall, that's what I mean, I was telling him to face the wall, and I was going to move him, to

face the wall, but I didn't get the opportunity, 'cause he turned, and jumped on me, so I--

Gjendem
Q. How were you trying to turn him, though, were you trying to turn him with your hands, or were you trying to turn him with your, your, your words, you were explaining to him, or how were you trying to turn him?

Kluth
A. I was ordering him to face the wall, and I was going to turn him physically, but I didn't get the opportunity.

Gjendem
Q. Are you left handed, or right handed?

Kluth
A. Right handed.

Gjendem
Q. Did you ever have a bear hug on this, on inmate [redacted]? A bear hug, a front to front bear hug, or, or belly to belly?

Kluth
A. No.

Gjendem
Q. Did you ever have him in a bear hug, where your belly was to his back?

Kluth
A. No.

Gjendem
Q. Were you ever in a bear hug at his, your back was to his belly, [redacted]' belly, where he had you around the waist, or around the chest?

Kluth
A. Maybe partially, 'cause I was kind of on his right side, and in front of him, but not really a bear hug. It could have been sort of in front of him, but not what I'd consider a bear hug, no.

Gjendem
Q. When [redacted] was trying to hit you with his left fist, I think you said you were taking most of the punches with your, your hand, is that correct?

Kluth
A. Yes.

Gjendem
Q. Did any of them hit you at all?

Kluth
A. I, I don't know.

Gjendem
Q. You don't know. Did he try to hit you any place else besides the, in the face or in the head?

Kluth
A. Upper body, he was just, kept swinging, I mean, I don't know where he was trying to hit, I assume it was my upper body.

Gjendem
Q. When you mean the upper body, can you tell me where?

Schwab
A. His head.

Kluth
A. The head.

Gjendem
Q. Okay.

Kluth
A. That was the main target, I think.

Gjendem
Q. The last paragraph, I mean, the fourth paragraph, last sentence, it says here, "As he was choking me, he started swinging his left fist, attempting to hit me." I think you left out the word, "in," the face and chest area. What were happening to the blows to the chest area, that he was punching you there?

Kluth
A. What do you mean?

Gjendem
Q. Was he hitting you there, or you said, he was swinging his left fist, attempting to hit you in the chest area. You said, a moment ago, you said the upper body was your head.

Schwab
A. Okay, what's your question?

Gjendem
Q. Well, did any of the blows hit you in the chest?

Kluth
A. I don't know what blows hit, I wasn't really as concerned, I was concerned that he was swinging, and that's why I was blocking the swings, but I was more concerned with not being able to breathe, 'cause he was choking me, and I was trying to get his arm off, so I wasn't really concerned with it, I was concerned enough to try to block them, but I didn't, I didn't, I don't really remember. I was more concerned about the other arm.

Gjendem
Q. Do you know how many blows, or how many punches you blocked to the head from [redacted]?

Kluth
A. No, I have no idea.

Gjendem
Q. Several, more than one?

Kluth
A. More than one.

Gjendem
Q. Do you know how many you blocked to the chest area, if you blocked any at all?

Kluth
A. I don't know how many.

Gjendem
Q. Do you know how tall [redacted] is?

Kluth
A. No.

Gjendem
Q. Is he taller than you, or shorter than you, same height?

Kluth
A. Around the same height, I think.

Gjendem
Q. How about weight?

Kluth
A. No idea.

Gjendem
Q. Do you think he's heavier than you, or lighter than you?

Schwab
A. At that time?

Kluth
A. (Inaudible).

Gjendem
Q. At that time.

Kluth
A. At that time, I don't know, about the same.

Gjendem
Q. Were you using your right arm then, to pull [redacted]' right arm away from your neck at all?

Kluth
A. Yes.

Gjendem
Q. And where did you have his right arm at, do you know?

Kluth
A. Anywhere I could grab hold of. I don't specifically remember any spot on his arm, I just tried to pull it off.

Gjendem
Q. Did you have a hold of him down by the wrist area, that you know of, or anything like that?

Kluth
A. I don't know.

Gjendem
Q. When you got loose the first time from suspect, from [redacted], is it possible he let you go, he let go of you?

Kluth
A. No, I don't think so.

Gjendem
Q. Why?

Kluth
A. 'Cause I had to fight to get away from him.

Gjendem
Q. Was your strength overcoming his strength?

Kluth
A. No.

Gjendem
Q. To get away from him?

Kluth
A. It overcame it enough to get away, but that was just barely.

Gjendem
Q. Did you feel pressure moving around your neck, from that hold that [redacted] had on you?

Kluth
A. Yes.

Schwab
A. That was, "yes."

Kluth
A. Yes.

Gjendem
Q. Was there constant pressure, or was it just a hold on you that he was, of his arm around your neck?

Kluth
A. It was constant, and then it got worse as, you know, we twist and bounce on the bars and whatever, you know. It was constant pressure, though, enough to make me so I couldn't breathe.

Gjendem
Q. From the time that you had, released the first time or you got freed the first time, and he got the second hold on you, do you know how much time we're talking about in there?

Kluth
A. Fraction, second.

Gjendem
Q. A second.

Kluth
A. It wasn't, it wasn't very long at all.

Gjendem
Q. When he had the hold on you here, were your, and you bounced around the, the bars, and the Able Charley area like this, is this the area where you were at when you were, when you got loose in here?

Kluth
A. No.

Gjendem
Q. Where did you get loose the first time?

Kluth
A. I believe it was in front of like Baker and Denver row, somewhere over in here.

Gjendem
Q. Over in the Baker Denver row area, in front of the gates?

Kluth
A. Yes.

Gjendem
Q. Okay. At that time, do you know if any back up, did you know if any back up was coming?

Kluth
A. No.

Gjendem
Q. You had no idea.

Kluth
A. No.

Gjendem
Q. At that time, were you able to yell for help to Deputy Sloan, during that second or two, or that second?

Kluth
A. No.

Nemeth
Q. You were unable to, or you didn't think to?

Kluth
A. I wasn't able to.

Gjendem
Q. Now, when you went down to the floor area, and you landed here, and it was just after that the, the assisting deputies arrived, we're talking about [redacted] and--

Schwab
A. [redacted]

Gjendem
Q. --[redacted] when they arrived, correct, or right when it happened?

Kluth
A. Yeah, it was kind of right at the same time.

Gjendem
Q. Now, did we have some blood over here in this area, in the, where you landed at, is that where the blood was at?

Kluth
A. Only blood I remember was being once he was handcuffed, and hobbled, and I went over to turn him up, I remember seeing blood where his face was, and a smear on the, on the concrete, that's all I remember seeing.

Gjendem
Q. Okay, now this is a crime report, is it not?

Kluth
A. Yes.

Gjendem
Q. Complaint report, crime report?

Kluth
A. Yes.

Gjendem
Q. And you wrote a crime report?

Kluth
A. Yes.

Gjendem
Q. And in your opinion, you had a crime take place in here, where you were the victim of an assault, correct?

Kluth
A. Yes.

Gjendem
Q. Did you take any photographs of this area for the crime?

Kluth
A. No.

Gjendem
Q. Do you know who cleaned up that blood?

Kluth
A. No.

Gjendem
Q.   Did somebody clean it up?

Kluth
A.   I don't know.

Gjendem
Q.   At any time later, did you ever see any photographs taken of this area, of, after the incident took place?

Kluth
A.   No.

Gjendem
Q.   Okay. Did, did you additionally charge this guy with, with, [redacted], with 245, assault on you?

Kluth
A.   No.

Gjendem
Q.   You did not.

Nemeth
Q.   Or a 243-C, like it says here on your report?

Schwab
A.   Well, obviously, he did that, it says so on the report. Is that what you're asking?

Kluth
A.   Charged him with what's on the report, 243-C?

Nemeth
Q.   Okay, I mean did you cause an additional charge or hold be placed on his booking records?

Kluth
A.   As far as a hold, what do you mean?

Nemeth
Q.   Was this complaint filed to the district attorney, to your knowledge, charging Mr. [redacted]--

Kluth
A.   To my knowledge?

Nemeth
Q.   --with this crime?

Kluth
A. No.

Nemeth
Q. Were you ever subpoenaed in court?

Schwab
A. Well, do you know whether or not it was submitted to the district attorney?

Kluth
A. I (inaudible).

Nemeth
Q. Or, she's got a good question, let me ask it?

Schwab
A. Yeah.

Nemeth
Q. Did you, are you aware of the status of this case in terms of criminal prosecution, was it ever presented to the district attorney's office?

Kluth
A. Not that I know of.

Nemeth
Q. Okay, were you ever subpoenaed on this case to testify in a criminal proceeding against Mr. [redacted]?

Kluth
A. No.

Nemeth
Q. Okay, so you've never given any testimony on this matter, until today, is that correct?

Kluth
A. That's correct.

Schwab
A. This is not testimony by the way.

Nemeth
Q. Well, statements, excuse me. You know, your representative brought up an interesting point, this is not testimony, because testimony false testimony is punishable by conviction of perjury, and you're not a sworn--

Schwab
A. This is not testimony because--

Nemeth
Q. Right.

Schwab
A. --we're not in a court of law.

Nemeth
Q. That's right, and you have not been--

Schwab
A. That's why this is not testimony.

Nemeth
Q. And you have not been, not been sworn, correct, in this interview?

Schwab
A. We've not been sworn by an officer of the court.

Nemeth
Q. Right. Is that correct, Deputy Kluth?

Kluth
A. That's correct.

Nemeth
Q. Okay. But you do realize the form you signed earlier requires you under the provisions and policies of the sheriff's department to give full complete and truthful statements here today. Is that correct?

Kluth
A. That's correct.

Nemeth
Q. Okay.

Schwab
A. Are there any statements he's made, sergeant, that lead you to believe that Deputy Kluth is not being forthright with you in this matter?

Nemeth
Q. Well, I just -- I'm just the investigator. I want to remind Deputy Kluth that he has to do that because as I mentioned earlier we are in receipt of additional statements which are in conflict with what you've said today thus far.

Schwab
A. Okay. And as I stated to you yesterday, sergeant, we would like a full and fair opportunity to address those statements and we'd like you to provide those to us at this time, so the dep -- now we got a problem because you guys are either have have to loan a tape or we'll come back tomorrow so I can get new tapes.

Nemeth
Q. Well, you owe us two from the last time I loaned you two tapes.

Schwab
A. You didn't -- I don't think you loaned me two tapes.

Nemeth
Q. Yes, ma'am, I did.

Schwab
A. I think you provided us tapes for prior statements but that's not a loan.

Nemeth
Q. No. I gave you --

Schwab
A. -- that's something you guys are required --

Nemeth
Q. -- I gave you -- well, that's true. I did give you two tapes that you were gonna provide. I forgot. I'll be glad to provide you a tape but I would request that the next time somebody's here from your office to bring us the three tapes.

Schwab
A. (inaudible)

Nemeth
Q. Okay. Here's a tape for you. Do you want to take a break? Well, take a break. Time is 10 minutes to 3. We're back on tape on the record of case number 008383. Time is 1501 hours.

Schwab
A. And prior to my having changed tapes I was in the middle of requesting you that provide us with whatever documents you have to suggest that there are conflicting statements with those of Deputy's Kluth's, so he could get a fair opportunity to address those conflicts.

Nemeth
Q. Okay. And Deputy Kluth, the sheriff's department's procedures are something that I'm bound to abide by and they are such that I

cannot release that at this time, but I can tell you and I can plead with you to make sure you're telling me the whole truth in this incident because there are sub -- statements which are substantially different from yours. So, I'm just asking you to -- to make sure that before you leave this room today you have told us everything you know about this event. Okay?

Kluth
A. Okay.

Nemeth
Q. Fair enough.

Kluth
A. Fair enough.

Nemeth
Q. Okay. Alright. Sergeant Gjendem was asking -- no, go ahead.

Gjendem
Q. Okay. During that 15 minute period when the inmate was walking around down here on the Baker row shower -- time down here and he was hiding from you or whatever he was doing down there on the -- on the row and everything and prior to going out there you were in the booth at that time. Correct?

Kluth
A. Yes.

Gjendem
Q. And you had the availability of a phone to you. Correct?

Kluth
A. Yes.

Gjendem
Q. Did it ever cross your mind to request a prowler come down and assist you?

Kluth
A. About the same time Deputy Sloan came in, yes.

Gjendem
Q. Okay. Did it ever cross your mind to request a senior come down to the module because of this inmate?

Kluth
A. No.

Gjendem
Q. Did it ever enter your mind to request a sergeant come down there to 4400?

Kluth
A. No.

Gjendem
Q. Okay. Did you ever see who was assigned to your floor that night?

Kluth
A. Yes.

Gjendem
Q. And do you know who that was?

Kluth
A. It was Senior Jackson.

Gjendem
Q. And did you have a sergeant assigned to your floor that night?

Kluth
A. Yes.

Gjendem
Q. And who was that?

Kluth
A. Sergeant Mosley.

Gjendem
Q. Okay. Do you know if they were both available at 12:15 to 12:30 in the morning? At 0015 hours to 0030 hours?

Kluth
A. I don't know.

Gjendem
Q. Did you inquire as to where they were available?

Kluth
A. No.

Gjendem
Q. Did you inquire -- inquire to learn if any of the prowlers were available to come down to 4400 to assist you?

Kluth
A. No.

Gjendem
Q. During that 15 minute -- during that 15 minute time that they -- he was out on the row out here did you have ample time to call for a sergeant or a senior?

Schwab
A. Now, before he answers that, sergeant, are you suggesting that that is policy that he was supposed to call for a -- for a supervisor when there is a reluctant inmate?

Gjendem
Q. Should be calling for a prowler.

Schwab
A. Well, you're asking about supervisors.

Gjendem
Q. Did you call for a prowler?

Kluth
A. During the 15 minutes?

Gjendem
Q. Yes.

Kluth
A. No.

Gjendem
Q. Did you have time to call for a prowler during that 15 minute period?

Kluth
A. Yes.

Gjendem
Q. Okay. And why didn't you call for a prowler? Can you tell me?

Kluth
A. Well, like I said by the time I was getting ready to call for somebody Deputy Sloan came in.

Gjendem
Q. Okay. And Sloan was there and you were there. You were the only two? Sloan was gonna stay inside the control booth. Is that correct?

Kluth
A. I asked him to, yes.

Gjendem
Q. And then you went outside. Correct?

Kluth
A. That's correct.

Schwab
A. Well, sergeant, if a prowler isn't he by himself, too.

Gjendem
Q. Well, I will get to that. If you had a gone out and you had one or two prowlers there with you it would've been two or there of you, then. Correct? With that inmate?

Kluth
A. No. It -- I'm sorry. What was the question again?

Gjendem
Q. If you'd a gone outside the control booth there and had -- and had a couple of prowlers come down to assist you there would've been two or three of you could there? Correct?

Kluth
A. It's hard to get one prowler let alone two. So, most there ever have been would've been two.

Gjendem
Q. Okay. And plus yourself would've been three?

Schwab
A. He couldn't leave the control booth, sir.

Gjendem
Q. He said he had Sloan there.

Kluth
A. In the module -- if I -- if there -- there was -- I didn't call a prowler so it was just me and Deputy Sloan. So, there was two of us. If I had called a prowler there would've been in the module a total of three.

Gjendem
Q. Okay. That's -- that's if Sloan had not come down. Correct?

Schwab
A. No.

Kluth
A. No.

Schwab
A. That's with Sloan.

Kluth
A. That's with Sloan.

Gjendem
Q. You said you'd gotten two prowlers correct?

Schwab
A. No.

Gjendem
Q. One? Okay. There would've been three of you. The two of you out there, have you ever heard the term, "show of force?"

Kluth
A. Yes.

Gjendem
Q. Can you tell me what you believe that means?

Kluth
A. Basically when you're trying to describe here from what I understand having two of us would be a bigger show of force in a more determined frame of doing anything than it would be with just me.

Gjendem
Q. And again, that didn't enter -- enter your mind before you went out there to talk to the inmate and remove him from the Baker row?

Kluth
A. He was causing other than not locking it down he wasn't causing any problems. The fact that I wanted him locked down was the only problem. He wasn't acting any different than the hundreds of other inmates I've contacted. I've never had a problem with.

Gjendem
Q. Well, during those hundreds and hundreds of inmates you've contacted, did you ever have anybody hiding from you before?

Kluth
A. Yes.

Gjendem
Q. How many times?

Kluth
A. Couldn't tell you.

Gjendem
Q. Okay. Get back to the questions here. When you were down on the floor inside the module here and you had a hold of the inmate's left arm and [redacted] had a hold of the right arm. Correct?

Kluth
A. I learned later it was him. Yes. Again, I don't know if he had a hold of -- trying to get (inaudible) back.

Gjendem
Q. What was he trying to do?

Kluth
A. Trying to get the arm back.

Gjendem
Q. How was he trying to do that?

Kluth
A. I don't know.

Gjendem
Q. Okay. The deputy that was -- had the right arm did he have both his knees on the inmate's back or on his shoulder or on the ground or where were his knees?

Kluth
A. I don't know.

Gjendem
Q. Do you know where Deputy Sloan's knees were at?

Kluth
A. No.

Gjendem
Q. Did you see Deputy [redacted] kick the inmate?

Kluth
A. No.

Gjendem
Q. Did you see Deputy [redacted] knee the inmate?

Kluth
A. No.

Gjendem
Q. When you and Sloan and [redacted] were writing your reports down on the watch deputy's office where was Deputy [redacted] Do you know?

Kluth
A. I think he was in 4 or 5 control.

Gjendem
Q. Do you know what he was doing in 5 control?

Kluth
A. Writing paper work. I'm not sure.

Gjendem
Q. Writing his -- writing his report on this particular incident or do you know?

Kluth
A. I don't know.

Gjendem
Q. He didn't tell you that he was going to go up there and write his report or anything like that?

Kluth
A. I don't remember.

Gjendem
Q. I think you said [redacted] had the -- had the legs. Is that correct? The inmate's legs.

Kluth
A. Yes.

Gjendem
Q. Can you tell me how [redacted] had a hold of the legs? Did he have his legs wrapped around the inmate's legs or did he have his arms wrapped around the inmate's legs or how were the legs being restrained?

Kluth
A. I don't know.

Gjendem
Q. No idea?

Kluth
A. No.

Gjendem
Q. You had your back. You had your back a-, away from Deputy [redacted] so your face would have been facing Deputy [redacted] Correct?

Kluth
A. That's correct.

Gjendem
Q. And you didn't see how he had a hold of the legs?

Kluth
A. I, I, I don't remember how he had a hold of 'em.

Gjendem
Q. The three or four blows that you struck in-, Inmate [redacted] the left kidney area with your right fist, did any of your blows lance off, glance off his kidney area and hit him in the testicle?

Kluth
A. No.

Gjendem
Q. Any chance that could've happened?

Kluth
A. None.

Gjendem
Q. Do you know? Do you know who notified the senior to come up here to the module?

Kluth
A. Believe it was me.

Gjendem
Q. And do you know how you notified the senior?

Kluth
A. No. No. I don't. I called the clinic and I'm, I'm sure I called him but probably called the (inaudible). I'm guessing. I don't, I don't remember how I contacted him.

Gjendem
Q. Okay. Do you know who notified the sergeant?

(End of Side B of Tape 3)

Gjendem
Q. Tape 4 of Deputy Kluth's Subject Interview case number 008383. At what point did the sergeant arrive inside Module 4400? After the incident was all over?

Kluth
A. Yes.

Gjendem
Q. After he, inmate, was (inaudible) hobbled can you tell me how many minutes it was from the point he, the (inaudible) hobble was applied until the sergeant got there?

Kluth
A. No. I can't tell ya.

Gjendem
Q. Half hour?

Kluth
A. I don't know.

Gjendem
Q. No idea?

Kluth
A. I, I don't think it was that long. But I, I don't really know.

Gjendem
Q. Okay. I wanna talk about some times. That's what I want to talk about now. The first time you saw the inmate exit his cell, did you see him coming out of the cell door?

Kluth
A. Yes.

Gjendem
Q. You did. Okay. From the time he exited his cell until you made your first PA announcement for him to get back in the cell, how long was that?

Kluth
A. I mean it was real, real short, right after he exited 'cause I was putting people in the cell and when he came out I told him to get back in. So, it was, the gates hadn't closed yet for the cell.
Gjendem
Q. Okay. So what are we looking at? 30 seconds? Or are we looking at, at a couple of minutes or?

Kluth
A. I'd say 30 seconds to a minute.

Gjendem
Q. Now, from the time you first used, used the PA and ordered the inmate back inside his cell until you walked out in front of Baker row and you called the inmate up, how long are we talking there?

Kluth

A. 15 minutes. Something like that.

Gjendem
Q. Now from the time you first told him to come up in front of the Baker row until the time he got you in the first headlock, how much time are we talking about?

Schwab
A. What's the first part of the question? From the time he what?

Gjendem
Q. From the time Deputy Kluth asked the inmate to come up to Baker row until the time he got in the first headlock, you gotten your first headlock.

Kluth
A. How much time?

Gjendem
Q. How much time elapsed?

Kluth
A. I guess 15 - 30 seconds, something like that. However long it takes to walk up the stairs and walk over.

Gjendem
Q. Okay now from the time you got in your first headlock until the time [redacted] and [redacted] arrived?

Kluth
A. I don't know. Seemed like a long time. I, I'd have to guess and say a minute and a half.

Gjendem
Q. Amount of time from when [redacted] and [redacted] arrived until Sloan came over, if you know?

Kluth
A. I don't know when he came over.

Gjendem
Q. Since you don't know that, the time between when [redacted] and [redacted] arrived until the handcuffs were put on?

Kluth
A. It's probably about -- I don't know. A minute and a half - two minutes.

Gjendem
Q. And the time from the handcuffs to the (inaudible) hobble?

Kluth
A. It was 30 seconds.

Gjendem
Q. Was there a period of time between when the handcuffs were put on and the (inaudible) hobble was on nobody had decided you were gonna put a (inaudible) hobble on, I mean, he was just laying there on his stomach--

(Cough)

Gjendem
Q. --and -- or on his back wherever he was laying at and he was no longer combative. Was there a period of time when he wasn't kicking around there, on the floor?

Kluth
A. Not that I remember, no.

Gjendem
Q. So it went directly from the handcuffs to the (inaudible) hobble?

Kluth
A. Yes.

Gjendem
Q. Okay. And we don't know the time from when the (inaudible) hobble put on until the sergeant arrived?

Kluth
A. No.

Gjendem
Q. I take it that [redacted] later went to the clinic. Is that right?

Kluth
A. Yes.

Gjendem
Q. Okay. And do you know who took him to the clinic?

Kluth
A. No.

Gjendem
Q. (Inaudible) And once again, it didn't occur to you to go inside the control booth when you saw the crazed look on the -- the inmate over here. Is that correct?

Kluth
A. Did it occur to me to go into the control booth?

Gjendem
Q. Yes.

Kluth
A. No, it did not.

Gjendem
Q. You decided to tackle the situation right there on your own?

Schwab
A. Mentally speaking, figuratively speaking, yes.

Gjendem
Q. Yes.

Kluth
A. Yes.

Gjendem
Q. You decided to handle that on your own then?

Kluth
A. Yes.

Gjendem
Q. Okay.

Schwab
A. However sergeant when you say situation, the only situation was just having the inmate go against the wall. Not unusual or -- or in any way out of the ordinary in the jail.

Nemeth
Q. Well, it is when you got a cr-, cr-, an inmate with a crazed look on his face to approach that inmate. We're just asking for your state of mind, but at that point you saw a crazed look on his face. Is that correct -- correct, Deputy Kluth?

Kluth
A. As I was walking up to him he had that look -- I saw -- when he came off the row he didn't have that look.

Nemeth
Q. Okay. In any of your training was the option of retreating ever presented to you? Retreating to a safe area?

Kluth
A. Where was I gonna retreat to?

Nemeth
Q. Well, perhaps the Module 4400 deputy control booth.

Kluth
A. Door was locked. That never came into my mind. I couldn't get into the booth if I wanted to.

Nemeth
Q. Wasn't Deputy Sloan in the booth?

Kluth
A. Yeah, but I'm not gonna turn my back on the inmate.

Nemeth
Q. Well, can you back up and continue to face the inmate?

Kluth
A. Yes.

Nemeth
Q. Okay. Did it ever enter your mind to do that?

Kluth
A. No.

Nemeth
Q. Okay. Was that ever presented to you as an option in your force training or anything like that that you can retreat from a situation that puts a distance between you and the perceived threat?

Kluth
A. As an option? Yes.

Nemeth
Q. Okay.

Schwab
A. Ha-, have you ever been trained to back away from an inmate and knock on the door to get into a control booth?

Kluth
A. No.

Nemeth
Q. But you have been taught that to put distance between you and a threat to allow you some safety room. Is that true? Is that what you said a minute ago?

Kluth
A. That's an option.

Nemeth
Q. Okay. An option you've been trained in? Is that correct?

Kluth
A. Yes.

Nemeth
Q. Okay.

Schwab
A. Did you feel it was an option in this ins-, instance?

Kluth
A. No.

Nemeth
Q. Did -- did anybody preserve this crime scene in this area that you know of?

Kluth
A. As far as preserve it, as far as what?

Nemeth
Q. Put up some yellow tape or anything like that?

Kluth
A. Not that I know of.

Nemeth
Q. No? And once again, did you -- did you look for any inmate witnesses in the cells, Baker row, Denver row or anything like that?

Kluth
A. No.

Nemeth
Q. On early mornings do you have other trustys assigned on early mornings?

Kluth
A. Yes.

Nemeth
Q. And how many trustys are assigned on early mornings?

Kluth
A. It varies. One or two.

Nemeth
Q. Okay. Your trustys that you have, do you give them free room -- free roaming inside the module?

Kluth
A. What do you mean by that?

Nemeth
Q. Up and down the rows. The Able row. The Charlie row. Into their day rooms.

Kluth
A. Yes.

Nemeth
Q. You do? Okay. If they want to come outside the Charlie row gate do you buzz them out?

Kluth
A. Yes.

Nemeth
Q. Okay. And do you recall how many trustys were up on -- were awake and up and out of their bunks on October 27th at, at about 0030 hours?

Kluth
A. No I don't.

Nemeth
Q. No you don't? Do you know where the trustys were at when this incident took place?

Kluth
A. No.

Nemeth
Q. So, you said there could've been one or two trustys. Right?

Kluth
A. There's one or two assigned to early mornings. Could've been another, another one out. Sometimes I like, I, just to use the phone or something, but not very often.

Nemeth
Q. Do you remember letting a trusty use the pay phone this night? This, the date and time of this incident?

Kluth
A. No.

Nemeth
Q. Is it possible you did and you just don't remember now?

Kluth
A. It's possible. I mean anything's possible.

Nemeth
Q. Of course, you said you -- you occasionally let trustys us the phone. Is that correct?

Kluth
A. Yes.

Nemeth
Q. Getting back to your --

Schwab
A. -- But you don't have a specific recollection of doing that on that evening?

Kluth
A. No.

Schwab
A. Is that correct?

Kluth
A. I don't remem-, I don't remember that.

Nemeth
Q. You don't remember one way or the other. Is that what you're saying?

Kluth
A. Yes. (Inaudible) don't remember.

Nemeth
Q. Okay getting back to your first report here, Deputy Kluth. Can you tell me -- or show me anywhere in the report where it says the inmate had a crazed look?

Schwab
A. Sergeant I think you're playing games at this point. We've been in this interview all day long for the record. If it's there it, the rec-, the document speaks for itself.

Nemeth
Q. Well, I'd like to know, if, if it's in there I haven't been able to find it.

Schwab
A. Well then, we'll take your word for that right now.

Nemeth
Q. Can you tell me why you didn't put the word crazed look in there -- in the report?

Kluth
A. No.

Nemeth
Q. One of the purposes of -- of writing this document here is to refresh your memory at a later time. Is that correct?

Kluth
A. Yes.

Nemeth
Q. Okay. And -- but you remember that today that he had a crazed look? Is that right?

Kluth
A. Yes.

Nemeth
Q. On October 27th at 0030 hours?

Kluth
A. Yes.

Nemeth
Q. And you didn't make a mention of it there.

Kluth
A. No.

Nemeth
Q. Nobody ever told you -- or let me ask you this. Did anybody ever tell you specifically not to document your force in this particular report?

Kluth
A. No.

Schwab
A. Did anyone tell you not to write a force memo on this?

Kluth
A. Yes. Sergeant Duncan told me not to write the force.

Schwab
A. Report or whatever you call it.

Kluth
A. Yeah, force packet.

Nemeth
Q. Sergeant who? Just to make sure we got it on the tape. You kinda trailed off there.

Kluth
A. Oh. I'm sorry. Sergeant Duncan.

Nemeth
Q. Okay. You -- the -- when Sergeant Mosley suggested you change your report in that one area there where you recall the word momentarily from briefly --

Schwab
A. No that's not what he said. He said that he recalled it was that paragraph that had to do with the word momentarily but he didn't recall specifically what was changed. That's what he said.

Nemeth
Q. Well was it the word "briefly" that was -- that was changed? Or you don't remember?

Kluth
A. I don't know.

Nemeth
Q. Well, did it -- did it change the substance of the report at all? What he told you?

Kluth
A. I don't believe so.

Nemeth
Q. Did it change the details in any way -- Of the report?

Schwab
A. Changed something. Depends on how you want to define the change.

Kluth
A. Yeah, it, it could have, but from the way it was worded, I don't remember how I had it worded so I can't really answer that. I don't know.

Gjendem
Q. If it would've changed the substance of the report you would've brought it to his attention though, correct?

Kluth
A. If it was wrong.

Nemeth
Q. Yes. Did you ever learn that Kammer, Broad and Barrett were in 4400 at any time? As we sit here today, do you know that they were there in that module?

Schwab
A. Well, that's not really a fair question because we have a lot of attorney client privilege involved in this case --

Gjendem
Q. -- other than from your attorney. Other than from your attorney did you at some point up to today learn that Kammer, Broad and Barrett were in that module?

Kluth
A. Not that I know of. I mean like I said before there were people there, like there always is. It was (inaudible) something happened, people show up. But I don't specifically recall seeing anybody that I can rec-, you know, recognize. So.

Nemeth
Q. (Inaudible) Okay. Deputy Kluth, we talked briefly -- or a little bit about your injuries that you sustained from this event. Scratches to your neck. Which side of your neck were the scratches on?

Kluth
A. On the right side.

Gjendem
Q. Okay. And stiffness or soreness to your neck and back. Is that right?

Kluth
A. That's correct.

Nemeth
Q. Okay. Were those injuries documented -- they're not in your report. Correct? Your injuries -- your specific injuries are not documented in this crime report. Correct?

Kluth
A. That is correct.

Gjendem
Q. Okay. Were your injuries documented somewhere else that you're aware of?

Kluth
A. Yes.

Nemeth
Q. Where is that?

Kluth
A. It would be on the -- I'm not sure what the form is that the sergeant filled out.

Gjendem
Q. Employee Injury report, something like that?

Kluth
A. Yeah.

Nemeth
Q. Okay. Did you seek medical attention for your injuries?

Kluth
A. Yes.

Gjendem
Q. And where did you go?

Kluth
A. To Boyle Heights Medical Clinic there.

Nemeth
Q. Okay and what was the diagnosis of your injuries?

Kluth
A. Don't remember. (Inaudible)

Gjendem
Q. Did you receive some treatment of some type?

Kluth
A. Yes.

Nemeth
Q. And what was that?

Kluth
A. Had x-ray taken of my elbow and had the scratches and stuff treated on my neck.

Gjendem
Q. What did they do for the scratches on your neck, specifically?

Kluth
A. I don't remember.

Nemeth
Q. Did they bandage them or put gauze on it or -- or just disinfect it and leave it open?

Kluth
A. I think they just disinfected it and put some stuff on it and left it open.

Gjendem
Q. Okay. Were they fairly superficial scratches in your opinion?
Kluth
A. They were pretty good scratches.

Nemeth
Q. Okay.

Kluth
A. I wouldn't call them superficial. They were k-, they were good scratches.

Nemeth
Q. Okay.

Schwab
A. Did you have to take any time off from work?

Kluth
A. Yeah, I had a day off and then I had to go back the next day to be treated and he asked me if I wanted any more time off and I just wanted to get back to work so, I said, "No."

Gjendem
Q. Okay. So the doctor ordered you to take one day off work and then you returned the following day?

Kluth
A. Yes.

Gjendem
Q. Okay. And how about the elbow. Was there any -- any indication of a fracture or anything to your elbow from the x-ray?

Kluth
A. No fracture. No.

Gjendem
Q. Did -- what did they do to treat your elbow?

Kluth
A. Just -- can't remember -- think just put ice on it. I think that's all --

Schwab
A. -- What was the problems (inaudible)?

Kluth
A. It was swollen up from hitting on the concrete floor.

Gjendem
Q. Okay they prescribed some ice cold packs for that?

Kluth
A. Yes.

Gjendem
Q. Okay. Was your arm ever placed in a cast or a sling as a result of the injury?

Kluth
A. No.

Gjendem
Q. Okay. As far as your neck, was your neck x-rayed?

Kluth
A. Yes.

Gjendem
Q. What -- was there any -- any problem noted with the x-ray?

Kluth
A. No.

Gjendem
Q. Did you receive a neck brace of any kind?

Kluth
A. No.

Gjendem
Q. Any cold packs or any type of treatment at all for your neck?

Kluth
A. Not that I remember. No.

Gjendem
Q. Okay were you treated for anything else besides what we just talked about? Hold on. Okay. Back on record after a brief tape change. Did you receive any other treatment or did you receive any other injuries besides what we've talked about?

Kluth
A. Yes.

Gjendem
Q. Okay what was that?

Kluth
A. I had a -- my, my ear. He looked at my ear because he said, because it was very sore and he said that it was possible -- possibly I broke cartilage in my ear but there was nothing they could do for that. So.

Gjendem
Q. Which ear is that?

Kluth
A. Think it was my left ear. I don't really remember.

Gjendem
Q. Okay. There was no treatment prescribed for that though?

Kluth
A. Nothing they could do. No.

Gjendem
Q. Okay. Anything else besides that then?

Kluth
A. No.

Gjendem
Q. Okay. Okay. After the event, was was the state of your uniform? Was it in some disorder?

Kluth
A. Yes.

Gjendem
Q. Okay. Excuse me. Was that -- was your injuries and your uniform appearance photographed as evidence in this case?

Kluth
A. I attempted to get photographs taken.

Gjendem
Q. And -- and what happened?

Kluth
A. Sergeant pretty much laughed me out of his office.

Gjendem
Q. What, what sergeant is that?

Kluth
A. I believe it was Sergeant Belair, but I'm not positive. It was a day shift watch sergeant.

Gjendem
Q. For the day shift immediately following the night of this incident?

Kluth
A. Yes.

Gjendem
Q. Okay. And did you talk to Sergeant Belair?

Kluth
A. After I went to the clinic, the doctor at the clinic said that I should have photographs taken of the injuries to me. So when I got back to CJ, shift changed, new sergeant was in there. Went in there and told him that I would like to get the camera and have get pictures taken of the injuries to me and he was joking with another sergeant asking me if I wanted to take these home and hang them on my wall or whatever. So yes, I did attempt but, no there were none taken.

Gjendem
Q. Okay. And you're saying that you -- did you initially seek some treatment at the clinic? Is that what I'm hearing you say? At the Central Jail Clinic? You said at the clinic. What clinic were you talking about?

Kluth
A. Boyle Heights.

Gjendem
Q. Okay. And were you taken there by somebody?

Kluth
A. Yes.

Gjendem
Q. Who?

Kluth
A. Deputy Kimura.

Gjendem
Q. Okay. Was the supervisor present there?

Kluth
A. Kimura

Gjendem
Q. Kimura is K-I-M-U-R-A. Is that right?

Kluth
A. Yes.

Gjendem
Q. Okay. Was there a supervisor present at Boyle Heights Clinic?

Kluth
A. No.

Gjendem
Q. Okay. And did you ask any of the sergeants who were on duty at the time of the incident, or prior to your going to the Boyle Heights Clinic, Sergeant Mosley or Sergeant Duncan, did you ask either of them to photograph you?

Kluth
A. No I didn't think of it.

Gjendem
Q. Okay. So first time you thought of it is when the doctor at the clinic mentioned it?

Kluth
A. Yes.

Gjendem
Q. Okay. Okay. So you attempted -- you talked to Sergeant Belair and, and did he ever say no he wasn't gonna do it or you felt that just by the exchange that you told us about a minute ago that you didn't want to do it any more or what happened? Did he absolutely refuse to do it?

Kluth
A. Well when he laughed at the idea, I took that as a refusal. Did he state that he refused to do it? No, he didn't.

Gjendem
Q. Okay. Okay. Brief recap. When you called Inmate [redacted] off the row you were at position K-1 here in front of the Baker row

holding the gate open, when you called him off, what did you say? How did you call Inmate [redacted] off the row?

Kluth
A. I don't remember the exact words I used.

Gjendem
Q. Did you use any profanity when you called him off the row?

Kluth
A. No. Not that I know of.

Gjendem
Q. Okay. All right is it possible -- pardon --

Kluth
A. -- I, like I said, I don't remember what I said to him.

Gjendem
Q. Okay. Is it possible you could've said something like, "Come here mother fucker" or something like that?

Kluth
A. No.

Gjendem
Q. Not possible?

Kluth
A. No.

Gjendem
Q. Okay. Why is that not possible?

Kluth
A. 'Cause I don't talk like that?

Gjendem
Q. Okay. There are other witnesses who claim -- who state they heard you say that, so, does that refresh your memory at all or?

Kluth
A. Not at all. I -- I wouldn't say that.

Gjendem
Q. You wouldn't say that?

Kluth
A. Not in that situation.

Gjendem
Q. Okay. Would you say it in another situation dealing with an inmate?

Kluth
A. Possibly.

Gjendem
Q. Okay. Not this situation though?

Kluth
A. No.

Gjendem
Q. Okay. When -- when you called [redacted] up off the row you don't remember exactly how you did it but you're certain you did not use any profanity in your speaking with him. Is that right?

Kluth
A. I said I don't remember exactly what I said.

Gjendem
Q. Well is it possible that you used profanity when you spoke to [redacted] and told him to come up?

Kluth
A. Anything's possible. But I didn't say what you just said.

Gjendem
Q. Okay. But you could've used some other type of profane statement when you told [redacted] to come off the row. Is that what you're saying?

Schwab
A. -- Do you want him to speculate about this sergeant?

Gjendem
Q. No. He, I, I--

Schwab
A. What value is speculation to you?

Gjendem
Q. Well, it's not speculation. I'm entitled to explore his memory.

Schwab
A. -- No it is, when you say could you have done it. That call -- he said he didn't recall. That is what his statement is for the record.

Gjendem
Q. What he said is he could've --

Schwab
A. -- your statements could you have are valueless. They have no value in the record. He said he didn't know and he didn't recall. He didn't believe he said that and he said he didn't say the term "mother fucker".

Gjendem
Q. Okay. That's right. You're exactly right. He said I'm certain I didn't use that term but I could've said something else is what he said. So I'm now entitled to explore his memory and find out what you did say. That's why I'm asking this. This is --

Schwab
A. -- He said he didn't recall what he said.

Gjendem
Q. Okay. I get to ask the questions. Thank you. Your objections are noted for the tape.--

Schwab
A. You don't get to ask the same question ten times over, sergeant.

Gjendem
Q. Different question Miss Schwab.

Schwab
A. It's not a different question.

Gjendem
Q. Certainly it is.

Schwab
A. It is the same question. It calls for speculation. He said he didn't recall. Anything beyond that is simply speculation. It is not of any value to the record.

Gjendem
Q. Did you use any profanities at all when you addressed inmate [redacted] and told him to step off the Baker row?

Kluth
A. I don't remember.

Gjendem
Q. Okay. And do you remember Inmate [redacted] saying anything to you when you called him off the Baker row?

Kluth
A. No.

Gjendem
Q. Do you remember Inmate [redacted] saying that he want to go -- wanted to go into his cell now?

Kluth
A. No.

Gjendem
Q. Now, when you say "no" does that mean you don't remember him saying that or you're certain he didn't say that? There's a -- do you understand --

Schwab
A. Repeat the question. Could you repeat the question, sergeant?

Gjendem
Q. Yes. Do you understand the difference in what I'm saying?

Kluth
A. I -- you asked me if I remembered him saying that?

Gjendem
Q. Right.

Kluth
A. No. I don't remember him saying that.

Gjendem
Q. Okay. Now, let me ask you this. Do you remember for certain that he did not say that?

Schwab
A. What's the statement that you're referring to?

Gjendem
Q. Referring to [redacted] saying, "I'll go to my cell now."

Schwab
A. I'll got to my cell now?

Kluth
A. I didn't hear him say that.

Gjendem
Q. Well, making some statement along those lines that he wanted to return to his cell at that point.

Kluth
A. I don't remember him saying that.

Gjendem
Q. Okay. You keep saying you don't remember him saying that. The question that I asked you was, does that mean that he definitely did not say that?

Kluth
A. No. I -- I don't know.

Schwab
A. Did you -- did you hear him say that?

Kluth
A. No.

Gjendem
Q. Okay. All right. All right getting back to when you were reporting to Sergeant Duncan. You said you were speaking of Sergeant Duncan together with Sloan, [redacted] and [redacted] Correct?

Kluth
A. Yes.

Gjendem
Q. And you heard Sergeant Duncan say to someone, you don't know who, to go back to Module 4400 and look for witnesses? Is that correct?

Kluth
A. I heard him -- I heard him tell somebody to go look for witnesses. I don't remember -- I think he said that when we were in the sergeant's office. But we had already run this by him prior in the gym.

Gjendem
Q. Okay. And when Sergeant Duncan is saying that, was he saying that to Deputy Sloan?

Kluth
A. I don't remember.

Gjendem
Q. Do you know who went up to look for witnesses?

Kluth
A. No.

Gjendem
Q. Did somebody go up to look for witnesses?

Kluth
A. Yes. Somebody did.

Gjendem
Q. But you don't know who it was? The tape won't pick up when you shake your head.

Kluth
A. No. Sorry.

Gjendem
Q. Okay. And when you heard that instruction given to this person, this deputy, it was a deputy, right? Was it one of the four of you?

Kluth
A. I don't know who it was, but I would assume it was. I--

Gjendem
Q. Was there anybody else present besides the four of you and Sergeant Duncan?

Schwab
A. Present where?

Kluth
A. Well, in the sergeant's office, where we're talking about.

Kluth
A. I don't know.

Gjendem
Q. Did one of the four of you go up to see if there were any witnesses to the incident in Module 4400, at Sergeant Duncan's request?

Kluth
A. I'd have to say, "Yes." But I -- I don't know which one it -- it wasn't me. So, I, but I don't know.

Gjendem
Q. Why would you have to say, "Yes."

Schwab
A. Because you're forcing him to answer the questions, sergeant.

Gjendem
Q. No, no, no. Miss Schwab, the question -- (Laughing)

Schwab
A. -- That's why he has to say something because you're forcing him to answer.

Gjendem
Q. He -- he is compelled to answer questions in this interview.

Schwab
A. -- After, let's see almost six hours in this interview.

Gjendem
Q. This is important to me so I'm trying to listen to your answer, Deputy Kluth.

Schwab
A. Okay. Could you lean back across this table sergeant a little bit?

Gjendem
Q. Miss Schwab, I'm no more than a quarter -- quarter --

Schwab
A. -- Okay you're leaning way across toward my client and that's intimidating and we don't want that. We've had that all day long. We're not gonna put up with it any longer.

Gjendem
Q. Okay Miss Schwab. Well, I know with you present in the room you would not allow me to, at all, encroach on your client's space so just for the tape record I have both my elbows on the table. I'm leaning approximately 7 - 8 inches onto the table.

Schwab
A. And you're very forward on the table. You've been leaning across toward my client all day long. You have a booming, loud voice. He can hear you very well. Back off.

Gjendem
Q. Okay. Well, I -- I'm sorry about my voice, Miss Schwab, but I can't help my voice speech. I am not raising my voice above a con-, normal conversational talk. But Deputy Kluth, do you understand the question? This is important to me and I want to make sure that the record is clear on this statement for you.--

Schwab
A. -- What's the question? What is the question, sergeant?

Gjendem
Q. Do you know what your question is Deputy Kluth?

Kluth
A. No. What was the question?

Gjendem
Q. Okay. The question is at the time you're standing in the sergeant's office with Sloan, [redacted] and [redacted] and you're speaking with Sergeant Duncan, is there anybody else present?

Kluth
A. I don't know. Could've been somebody else there.

Gjendem
Q. Okay. And when Sergeant Duncan gave the instruction for someone to go up to Module 4400 and look for witnesses to this incident, did someone leave and do that?

Kluth
A. I don't remember for sure. I, it's been a while. I -- I don't, barely remember.

Gjendem
Q. Okay what got us to this point is a minute ago you said, "I'd have to say yes." And I asked you, why do you have to say yes?

Schwab
A. And we told you it's because you're ordering him to answer questions, sergeant.

Gjendem
Q. That's right. But I'm not ordering him to give me any particular answer. I'll accept the truth.

Schwab
A. Is that right? Okay. That's not -- that's not my impression. It seems to me that you're trying to twist his responses. All day long you've been trying to put words in his mouth. We don't accept that. I've told you over and over again your--

(End of Side A of Tape 4)

Gjendem
Q. We're continuing with Deputy Kluth's interview and Miss Schwab was just stating her concerns for the record. Deputy Kluth, what I'm saying, is yes, you do have to answer questions, but I'm not telling you how to answer questions, other than telling me the truth, and the question is, why did you have to say, a minute ago, you said, I'd have to say yes to that, that somebody left. Why, why would you have to say yes. What leads you to believe that somebody left and did it?

Kluth
A. Because I remember hearing Sergeant Duncan tell somebody to go do it.

Gjendem
Q. Okay.

Kluth
A. And if sergeant tells you to do it, you go do it.

Gjendem
Q. Okay, and did you remember hearing later on that someone came back and did it, and said that, "Nah there's no witnesses" or something like that?

Kluth
A. I don't really remember.

Gjendem
Q. Okay. When, when that person left to do it, as you're, as you're sure they did, because when a sergeant tells you to do something they do it, did you say, then, hey there was an inmate in the Baker row shower at the time of this event, you might want to talk to him, did you say that?

Kluth
A. I wasn't even thinking--

Gjendem
Q. Okay.

Kluth
A. --that.

Gjendem
Q. All right the question is, did you, did you say that to, to anybody?

Kluth
A. No.

Gjendem
Q. Okay, did you ever tell Sergeant Duncan there was an inmate in the Baker row shower during the event?

Kluth
A. I don't know.

Gjendem
Q. Well is it in your report anywhere, is that man listed as a witness on your report in any place?

Kluth
A. No.

Gjendem
Q. Okay. All right. When you did talk to Sergeant Duncan, that's, that's your oral notification of the force to the watch commander, is that correct?

Kluth
A. Yes.

Gjendem
Q. And you also had previously spoken to Sergeant Van Mosely, and gave him an oral notification of your force used in this incident, is that correct?

Kluth
A. Yes.

Gjendem
Q. Did you document the fact that you made those oral notifications in your report, as required by policy?

Kluth
A. I didn't know that was required, but no I did not.

Gjendem
Q. Okay. All right. Did you ever give this report to Sergeant Duncan to personally read?

Kluth
A. Did I personally hand it to him, I don't know.

Gjendem
Q. You don't know if you did it or not.

Schwab
A. That's what he said, Sergeant.

Gjendem
Q. Now let me clarify it.

Schwab
A. Are you asking a question?

Gjendem
Q. Yes.

Schwab
A. Okay, what's your question?

Gjendem
Q. You don't know if he did or not, is that correct?

Schwab
A. That's not a question.

Gjendem
Q. Sure, it is. Is that what you said, you don't know if you did or not?

Kluth
A. I do not know if I, personally, handed this report to Sergeant Duncan.

Gjendem
Q. Okay, do you know if Sergeant Duncan, do you personally know if Sergeant Duncan read this report?

Kluth
A. Did I watch him read it? No.

Gjendem
Q. No, that's not the question. The question is do you know--

Schwab
A. He's trying the question to the best of his ability, lower your voice Sergeant and lean back across the table.

Nemeth
Q. Miss Schwab, you are leaning much further across the table than I am.

Schwab
A. I'm doing that to counterbalance exactly what you're doing, and this may be a very hysterical situation to you, but it's not funny to us, we're tired, we've been here all day. I have to leave at four o'clock, that's approximately 12 minutes. Wrap it up or we'll come back tomorrow, or next week, to finish it.

Nemeth
Q. I am certainly not gonna short change Deputy Kluth on his interview time, and if we need more time to cover it, then we'll come back tomorrow.

Schwab
A. Quite frankly, we have nothing else to say.

Nemeth
Q. Well, the subject is the person who speaks in this interview, contrary to what's been happening, but it's supposed to be the subject who provides answers to the question. Deputy Kluth, in the

interest of moving along, if I can proceed with my questioning of you, do you know, did Sergeant Duncan read this report?

Kluth
A. Well he didn't come up and tell me that he read it. So no, I do not know.

Nemeth
Q. Okay.

Schwab
A. What's your understanding as to whether or not he read the report?

Kluth
A. Because my understanding of the way the reports go in, the way they have gone while there, as soon as the floor sergeant sees it, it either goes to the watch sergeant, or the watch commander, Sergeant Duncan being the watch commander, it should have gone to him.

Nemeth
Q. Okay, that's the normal paper flow for this type of event, is that what you're saying?

Kluth
A. Yes.

Nemeth
Q. Okay, but the question is, do you know, is there anything that Sergeant Duncan told you, or anyone else for that matter, which leads you to believe Sergeant Duncan read this report in its entirety, as it sits here today?

Kluth
A. Not that I can remember.

Nemeth
Q. Okay, thank you. All right. All right the person, whoever it, whomever it was, who went down to look for witnesses in module 4400, did they come back and report to you anything?

Kluth
A. I don't remember anybody reporting that, all I knew was that somebody had looked for witnesses and I heard that there wasn't any.

Nemeth
Q. Okay and there's none reflected in your report, right?

Kluth
A. No, there is not.

Nemeth
Q. Okay, is there a, a sentence in your narrative which states a deputy was dispatched to look for witnesses in this case, but found none?

Schwab
A. Just a moment, we'll have to read through this.

Nemeth
Q. Okay, or any of the reports?

Kluth
A. No.

Schwab
A. We're only going to address his report, you can test your reading skills on the other reports.

Nemeth
Q. Okay. Well, they, they do speak for themselves, as we stated earlier, but just as a, as an effort to refresh your recollection, did you write in your report that when someone searched for witnesses, and located none, is that indicated anywhere on here?

Schwab
A. Well, we're reading it right now Sergeant, give him a chance to respond.

Nemeth
Q. Okay.

Schwab
A. (Inaudible)

Nemeth
Q. Is there anything in your report, Deputy Kluth, now that I see you've concluded reading your report?

Kluth
A. No.

Nemeth
Q. Okay.

Schwab
A. But there is something for the record, Sergeant--

Nemeth
Q. Okay.

Schwab
A. --in the, Sergeant Duncan's report.

Nemeth
Q. Okay.

Schwab
A. That a deputy went and looked for witnesses.

Nemeth
Q. Right, that, that speaks for itself. Did, is there anything in your report, Deputy Kluth, that says that?

Kluth
A. No.

Nemeth
Q. Okay. Now why didn't you make mention in your report that you had made an oral notification to Sergeant Duncan and Sergeant Van Mosely about the use of force?

Schwab
A. He answered that, do you want him to repeat his answer to that?

Nemeth
Q. Well, I'm asking him why this time.

Kluth
A. Why? 'Cause I didn't know it wasn't necessary, to be in the report.

Nemeth
Q. Okay. You are aware that that's a policy of the Sheriff's Department, that you're responsible to know?

Kluth
A. No.

Nemeth
Q. Okay, Sergeant Gjendem?

Schwab
A. That's only your interpretation, Sergeant.

Nemeth
Q. Well, there is a--

Schwab
A. (Inaudible), this is not a counseling session, this is simply a question and answer.

Gjendem
Q. When [redacted] was down on the (inaudible), here on the Baker row, did you ever [redacted] say to anybody, tell other inmates or, or yourself, that he wanted to go to the clinic, and that he was on medication?

Kluth
A. No.

Gjendem
Q. Did you know--

Schwab
A. He wanted to go to the clinic, and that he was on medication?

Gjendem
Q. Yes.

Schwab
A. This is attributed to [redacted]?

Gjendem
Q. Yes. No? Did you, do you know if [redacted] is on medication or not?

Kluth
A. No.

Gjendem
Q. Did you ever check his, his record or anything like that?

Kluth
A. When?

Gjendem
Q. That, on that particular night, that morning, when it happened, October 27, did you ever check to see if he was on medications at all?

Kluth
A. After the fight?

Gjendem
Q. Yes, after the fight.

Kluth
A. No.

Gjendem
Q. Was [redacted] screaming at all during the struggle when you were on the ground there, with his arm, was he screaming at all, or just, any kind of noises?

Kluth
A. The only, the only noise I remember hearing was like a grunting sound, as you, you know, as you're trying to, you know, keep, as they're trying to bring his arm back, 'cause I had the left arm. The only sound I heard was him kind of like, you know, grunting and straining, and like resisting type noise, if you know what I mean, and he didn't say anything.

Gjendem
Q. Trying to resist his arms being taken from his back and he was making some kind of sounds.

Kluth
A. He was grunting.

Gjendem
Q. Okay. Did you ever hear anybody say, "Watch the door, I'm gonna get me some?"

Kluth
A. No.

Gjendem
Q. This is when [redacted] is down on the floor?

Kluth
A. No.

Gjendem
Q. (Inaudible).

Nemeth
Q. Okay, it references earlier on, oh tape two I guess it was, I have your Central Jail training records, indicate that you were present in recurrent briefings which discussed the topic of force on the Sheriff's Department, reporting force, use of force, and the dates are as follows: November 11, 1991, May 25, '92, March 7, '93, March 8, '94, June 24, '94, July 14, '94, September 8, '94. Additionally it indicates you were trained as an O.C. or pepper spray handling on June 4, 1994. Defensive tactics on January 2, '92, use of force issues, eight hour training on November 24, 1992-

Schwab
A. Sergeant, what's your point, is there a question?

Nemeth
Q. Yeah, there'll be a question, and communication skills on December 31, '91. Deputy Kluth, do you recollect attending these trainings, on those issues?

Kluth
A. Not all of 'em. Some of 'em.

Nemeth
Q. Do you have any independent recollection as I read those off to you that you were not present at one of those events?

Kluth
A. I couldn't say.

Nemeth
Q. Okay. All right. Do you recall signing this document on January 5, 1992, acknowledging that you have received a copy of Central Jails' training manual, and that you have read chapter three of the custody division manual, policy and procedures, as well as excerpts of the Sheriff's Department manual policy and procedures, and sections of the California penal code?

Schwab
A. What's your question regarding this document?

Nemeth
Q. Does he remember signing it, and is that your signature at the bottom?

Schwab
A. That's two questions.

Nemeth
Q. Well let's start with the first one, do you remember signing that?

Kluth
A. No.

Nemeth
Q. Is that your signature at the bottom of the page?

Kluth
A. Yes.

Nemeth
Q. When you signed this document, did you read it?

Schwab
A. He doesn't remember signing it, Sergeant.

Nemeth
Q. Well, let him answer the question Miss Schwab.

Schwab
A. Well he doesn't remember signing it, so is this supposed to be a trick question?

Nemeth
Q. Not at all.

Kluth
A. I don't remember signing it.

Nemeth
Q. Okay, do you remember reading any of these documents that this piece of paper refers to?

Schwab
A. We need to see that.

Nemeth
Q. Sure.

Schwab
A. Instead of waving it around. What's your question?

Nemeth
Q. Did you read those documents that are identified in that paragraph above your signature?

Kluth
A. Not all of them, no.

Nemeth
Q. Do you realize that by being a deputy sheriff, an active duty deputy sheriff employed as a full time peace officer by Los Angeles County Sheriff's Department, that you are responsible to know the policies and procedures in effect on the Sheriff's Department?

Kluth
A. Yes.

Nemeth
Q. Okay. (Inaudible) Sergeant Nemeth?

Nemeth
Q. You're not in the habit of signing documents that you don't read first, are you?

Kluth
A. No.

Nemeth
Q. Okay. That's all I have. We'll take care of this, this document right here, we just showed you.

Schwab
A. He doesn't recall signing it, Sergeant.

Nemeth
Q. But you're not in the habit of signing documents without reading them first are you?

Schwab
A. Deputies are ordered to sign documents all the time.

Nemeth
Q. Well Deputy Kluth, were you ordered to sign this document?

Schwab
A. (Inaudible).

Nemeth
Q. Take a look at it, and I'll show it to you again.

Schwab
A. (Inaudible).

Kluth
A. No I don't, don't remember, but I believe that was my first day on training, so--

Nemeth
Q. January 5, 1992?

Kluth
A. Yeah. I have to correct what I said before when I said that I hadn't read all of these, thought it said just the California Penal Code. I hadn't read the whole thing--

Nemeth
Q. Right.

Kluth
A. --sections of, I'm sure I read.

Nemeth
Q. Okay.

Kluth
A. But, as far as remembering what they are, no, I don't.

Nemeth
Q. All right. Well did you, as this document said, did you receive a copy of Central Jail's training manual?

Kluth
A. Yes.

Nemeth
Q. You do remember that?

Kluth
A. Yes.

Nemeth
Q. Okay, and then it talks about reading after that, chapter three of the custody division policy and procedures, do you, do you remember reading that, chapter three, of custody divisions?

Kluth
A. No, I, I probably tell you what it was about.

Nemeth
Q. Okay.

Kluth
A. I mean, it's a long time ago.

Nemeth
Q. Okay. And the Sheriff's Department excerpts, from the Sheriff's Department manual of policy and procedures, are you familiar with some of those sections?

Kluth
A. I've, I've read sections, and the, or the excerpts that, but I couldn't tell you what (inaudible) is.

Nemeth
Q. Okay. All right. But you do realize that you do have to, you are responsible for knowing the, the procedures which dictates how you operate as a member of the Sheriff's Department, is that correct?

Kluth
A. Yes, I'm aware of that.

Nemeth
Q. Okay. All right. That's all the questions we have for you on this incident. Our intent was not to keep you here all day, but it was not to short change you on anything that is pertinent to this case, that could come out, to shed light on the full picture of what happened, okay? Do you understand what I'm saying so far?

Kluth
A. Yes.

Nemeth
Q. Okay, is there anything you want to add that we haven't asked you about this incident which would tend to address something that we haven't gotten into yet?

Kluth
A. No.

Nemeth
Q. All right.

Schwab
A. And, and again Sergeant, as I've stated in all the previous interviews, we'll reserve comment until we have a chance to review the investigative file.

Nemeth
Q. All right hold on one second, before we close up. There is one thing I'm going to draw your attention to, that your representative mentioned earlier, and that was something about a sergeant told you that deadly force is justified in this incident, or something like that?

Kluth
A. Yes.

Nemeth
Q. Would you like to add that at this time, I'd like to hear about that.

Kluth
A. When we went to the gym to give the oral to Sergeant Duncan, after we told him what happened, basically ran down the whole situation for him, he says, well, he goes, something to the effect that well, you know, deadly force would have been authorized in that situation.

Nemeth
Q. That's Sergeant Duncan saying that?

Kluth
A. Yes.

Nemeth
Q. And who was present when you were in the gym with Sergeant Duncan? You said, 'cause you used the term us, that's why I'm asking.

Kluth
A. Well, it was the, the four of us, Deputy [redacted] Sloan, myself, and then whoever else was in the gym, I don't know who was in the gym.

Nemeth
Q. Okay. But as far as the people involved in this incident, it was just you and the other three deputies, [redacted] and Sloan?

Kluth
A. Yes.

Nemeth
Q. Was Ser-, is that both sides of that? Real briefly was Sergeant Mosely there with you or not?

Schwab
A. Wait, wait we can't continue this side.

Nemeth
Q. That is both sides of that tape?

Schwab
A. Yeah.

Nemeth
Q. Oh my gosh, hold on, we'll take a break. Okay we're back on the record after a brief tape change, time is 1602 hours, this is IAB 008383. Deputy Kluth has just been asked to sign the bottom of the diagram we have been referring to throughout this interview, which he has done, and very briefly, what we we were going into before the representative's tape expired is, was Deputy, I mean Sergeant Mosely present with you when you were speaking to Sergeant Duncan in the gym?

Kluth
A. I don't remember.

Nemeth
Q. Okay. All right. Is there anything else you want to add at this point?

Kluth
A. No.

Nemeth
Q. Sergeant Gjendem?

Gjendem
Q. That's it.

Nemeth
Q. Miss Schwab?

Schwab
A. No.

Nemeth
Q. Okay, conclude the interview, it's 1603.

END OF INTERVIEW

ADMINISTRATIVE RIGHTS/SWORN SUBJECTS

I am **Sergeant John Nemeth** and this is **Sergeant Ernie Gjendem** of the Internal Affairs Bureau, which is commanded by Captain Norman L. Smith.

You are about to be questioned as part of an official Los Angeles County Sheriff's Department administrative investigation.

Do you have a Policy and Ethics Chapter of the Manual of Policy and Procedures? Yes [/] No [ ]
Are you familiar with its contents? Yes [/] No [ ]

You are specifically reminded that Policy and Ethics Section 3-01/040.70 requires that you make truthful statements and Section 3-01/040.75 requires that you make full and complete statements.

This investigation concerns: (Explain allegations /basic reason for investigation.) **Alleged Use of Excessive Force; and Reporting the Use of Force**

If this were a criminal investigation any statements you made could be used against you in a court of law. Since this is an administrative investigation, neither your statements nor any information or evidence which is gained by such statements can be used against you in any subsequent criminal proceeding. However, these statements may be used against you in subsequent administrative actions.

You are being ordered to answer questions specifically related to the performance of your official duties and/or your conduct as related to your employment with the Department.

You have the right to remain silent, and you have the right to the presence and assistance of counsel. You are hereby notified that although you have the right to remain silent, failure to answer questions directly related to this administrative investigation may result in your discharge or other punitive action.

You have the right to have a representative of your choice, who is not involved in this investigation, present with you during your interviews. You may tape record this interview if you wish. **You are being ordered not to discuss the facts of this case or any of the issues discussed during your interview with anyone other than your designated representative or attorney in this matter.**

Initials [initials]

The above admonition has been explained to me and I understand its contents.

DATE: 12-14-95 FILE NO. **IAB 008383**

SUBJECT: (Signature) [signature] (Print) DAVID A. KLUTH # [redacted]

INVESTIGATOR: (Signature) [signature] (Print) **John Nemeth**

DEP. [redacted]
I.A.B. INTERVIEW 12-13-95

SUBJECT INTERVIEW

CASE NUMBER IAB 008383

[redacted]

Nemeth
Q. Today's date is December 13th, 1995. The time is 1018 hours. I'm Sergeant John Nemeth from Sheriff's Internal Affairs. This is Sergeant Ernie Gjendem. We're present today at the Internal Affairs Interview Room with Subject Deputy [redacted] This is regarding IAB case number 008383. Deputy [redacted] would you state your and spell your last name and state your employee number for the record, please.

[redacted]
A. Yes, sir. [redacted] spelling of last name, [redacted]. Employee number [redacted].

Nemeth
Q. Okay. And prior to going on tape, I provided you a copy of your Administrative Rights as a Sworn Subject in this case. I see you signed the form, indicated, "yes" to the questions, and put your initials near the block that discusses you--you're ordering--being ordered not to discuss what we talked about in this interview today. Do you understand the form and what's you've signed and initialed?

[redacted]
A. Yes, sir.

Nemeth
Q. Okay. I see you've elected to have a representative with you and she's present next to you. I'm going to ask Miss Schwab to spell her last name for the record, please.

Schwab
A. S-C-H-W-A-B.

Nemeth
Q. Thank you. And today we're here to talk about an incident that occurred on October 27th, 1994. Were you working that day?

[redacted]
A. Yes, sir.

Nemeth
Q. Okay. What was your assignment that day?

[redacted]
A. That would've been 5000 prowl, early morning shift.

Nemeth
Q. Okay. And what's your duties as a 5000 Prowler?

[redacted]
A. My duties would be to conduct a wrist band count of the floor to make sure all inmates, trusty inmates that are there on the floor and they're assigned to be there at that time, are present, make a check, safety check, fire extinguishers, fire hoses and such. Make sure that nothing has been tampered with in secured areas. Make sure all the doors that are to be locked are locked. After that, provide relief, break reliefs, lunch reliefs for the deputies assigned to 5000 dorms and also for deputies assigned to the modules on 4000 floor.

Nemeth
Q. Okay. Did you, during your shift this, that day, that evening, go to Module 4400?

[redacted]
A. Yes, sir.

Nemeth
Q. Okay. Why?

[redacted]
A. At the beginning of my shift, there's a roster that you put your name by to which person you're going to break on either 4000 or 5000. By the time I'd gone down to fill out the--the sheet, 4400 was open. I had trained in that module, so I knew the module. I put my name there and that was it. At 12:30 was when I called down and found out that there was a problem down there and that's when I went down to 4400.

Nemeth
Q. Okay. So what you're saying is you had previously signed up to do a meal relief so the deputy working that module could go and--and eat in the officer's dining room. Is that what you're--what you were saying?

[redacted]
A. Yes.

Nemeth
Q. Okay. So, and because you had signed up for relief, you called the module. Is that what you're saying?

[redacted]
A. Yes, I called the module to find out what time the deputy would want to go on break.

Nemeth
Q. Okay. And who was the deputy working the module?

[redacted]
A. Deputy Kluth.

Nemeth
Q. Do you know Deputy Kluth?

[redacted]
A. Yes--

Nemeth
Q. I mean had you known him?

[redacted]
A. I had worked with him a few times here and there at the jail.

Nemeth
Q. Okay. How would you classify your relationship with--with Kluth?

[redacted]
A. Knowing someone that you work with, just having worked different shifts, different overtime spots, things like that.

Nemeth
Q. Casual acquaintance from work, type thing--

[redacted]
A. Yes, casual acquaintance from work.

Nemeth
Q. You weren't friends with him off duty or anything like that?

[redacted]
A. Not really, nothing really, not with him, no.

Nemeth
Q. Okay. So about what time did you say you called Kluth in Module 4400?

[redacted]
A. This would have been approximately 12:30, sir.

Nemeth
Q. Okay. And who answered the phone?

[redacted]
A. Deputy Sloan.

Nemeth
Q. Deputy Sloan. And tell me the conversation or whatever happened from there.

[redacted]
A. I called. Deputy Sloan answered. I asked him what time Deputy Kluth would want to go on break. He said, "Hang on for a minute." He was gone from the phone--

Nemeth
Q. (knocking sound) Hold on, we'll take brief break. Time's 1020 hours. Alright, we're back on the record. Time's 1021 hours. We've been joined by Attorney Mitchell Kander, who will be in the interview observing. He also is a member of the law firm, Green and Shinee. Mr. Kander, can I ask you to spell your last name for the record and voice identification, please.

Kander
A. Yes, my name is Mitchell Kander, K-A-N-D-E-R, and I'm an associate with Green and Shinee.

Nemeth
Q. Okay, thank you. Okay. Deputy [redacted] where we left off was you had said that you telephoned Module 4400 to find out about when the chow relief was going to be made and Deputy Sloan answered the phone. You asked him, "Hey, what time does Kluth want to be relieved." He said, "Hold on the phone a second." Continue from there.

[redacted]
A. He was gone off the phone no more than a few seconds and then he came back on the phone and stated, "My partner's in trouble. He's in a 415 with an inmate. Get me back-up."

Nemeth
Q. Okay. What did you do?

[redacted]
A. Wasn't the response--wasn't the response that I was looking for. This took by surprise, but I hung up the phone immediately and looked over to Deputy [redacted], who was the other 5000 Prowler at the time, and told him, "We've got a 415, deputy involved, 4400." And I yelled at the booth officer, "Put it out."

Nemeth
Q. Where were you when you made the call to Module 4400?

[redacted]
A. I was in the 5000 Control Booth.

Nemeth
Q. Okay. And you said [redacted] was also present there with you?

[redacted]
A. Yes, sir.

Nemeth
Q. Anybody else?

[redacted]
A. Deputy McGroarty was the booth officer that night.

Nemeth
Q. Okay. So you hang up the phone upon hearing Sloan say, "My partner's in trouble. Get me back-up." Correct?

[redacted]
A. Yes, sir.

Nemeth
Q. Okay. And you said you did something with [redacted] What was that you mean?

[redacted]
A. I looked over at Deputy [redacted] and told him, "We have a 415, deputy involved, 4400."

Nemeth
Q. Okay.

[redacted]
A. And Deputy McGroarty hit the locking mechanism for our door and went out the door. Deputy [redacted] was right behind me and we went down to 4000-5000 escalators, down to the 4000 landing. Got onto the 4000 floor. As soon as I turned onto the 4000 floor the low end, which are the lower number of modules, looked to my left, and I could already see the 4400 door was six to seven inches open and the gate was clacking as if someone was hitting it from the inside, make sure it was open.

Nemeth
Q. Okay. When you left the 5000 control booth with [redacted] it was just you and [redacted] and--and McGroarty, the booth--the 5000 Control Booth officer, correct? Those were the only three individuals in the booth at this time?

[redacted]
A. Yes, sir.

Nemeth
Q. Okay. So the two--there was only two of you that were allowed to respond, correct?

[redacted]
A. Yes, sir.

Nemeth
Q. Did you tell McGroarty to call main control and notify them of a deputy involved disturbance or anything like that?

[redacted]
A. I looked at Deputy McGroarty and I yelled at him, "Put it out," which, to me, put it out on the radio, get it out on the radio so we have back-up.

Nemeth
Q. Okay. Did he do that?

Schwab
A. If you know.

Nemeth
Q. Yeah, if you know.

[redacted]
A. To the best of my memory, no.

Nemeth
Q. Do you know why not?

[redacted]
A. No idea.

Nemeth
Q. Okay. Did you ever talk to him after the incident?

[redacted]
A. I later found that what he did was he put it out over the PA system. He did not put it out over the radio system, or over the--our portable radios. He put it out on the PA--

Nemeth
Q. Okay.

[redacted]
A. --which only goes to the 5000 floor.

Nemeth
Q. Okay. Did you ask him if he notified main control over the phone? Didn't ask him that? You have to say "no" because the tape--

[redacted]
A. Oh, I'm sorry. No.

Nemeth
Q. Okay. Did you, yourself, have a radio on that night?

[redacted]
A. Yes, sir, I did.

Nemeth
Q. Did you ever hear the announcement go out over the radio at all?

[redacted]
A. When we were going down from the 5000 to the 4000 floor, I could hear, "415, deputy involved, 4400." That was coming out on the PA above me. There's one speaker on the--on that landing area.

Nemeth
Q. Uh-huh.

[redacted]
A. When I heard that, my focus was getting to 4400 and I--I thought it was coming out on my radio, that's where I thought it was coming from.

Nemeth
Q. Uh-huh.

[redacted]
A. I was just hearing it and hearing, "415, deputy involved," was telling me, to me, I thought everybody knew. I thought people were knowing it, they'd be there.

Nemeth
Q. Uh-huh. What floor were you on when you heard that? What landing?

[redacted]
A. The 5000 floor.

Nemeth
Q. Five, you're still on five?

[redacted]
A. Still on five.

Nemeth
Q. Okay. Alright, so take it from there. You--you and [redacted] then go down the escalator to four, correct?

[redacted]
A. Yes, sir.

Nemeth
Q. And then what happened? When you got there, you heard the door clacking, the door to 4400 was open six or seven inches.

[redacted]
A. Entered 4400--

Nemeth
Q. Who entered first, you or [redacted]

[redacted]
A. Myself, sir.

Nemeth
Q. Okay.

[redacted]
A. I went in--I answered 4400, Deputy [redacted] was still right behind me. The minute I got in 44, I saw Deputy Sloan at the control booth door to 4400, which is inside the module. He was--he had--he was standing and he was facing to his left, to my right, which is a blind corner from me until you get around the corner.

Nemeth
Q. Right.

[redacted]
A. The minute I entered the module though, I could hear sounds of a struggle. I could hear sounds of--of--of fighting. The minute I saw Deputy Sloan's attention that way, I immediately turned to my right as I came around the corner and I saw Deputy Kluth standing with his knees slightly bent with an inmate directly behind him and the inmate had a choke hold on him, with the inmate's right arm around his neck. And the minute I saw it, to me, it looked like Deputy Kluth was being choked out. His knees were bent and he had one arm, which he had about right here, and he was more or less just--it looked like he was just trying to--to stop the inmate, just trying to get it off--get him off of, but to me it looked like he was going out.

Nemeth
Q. Okay, when you, just for the tape, what you did is when you said he had his right arm right here, you referring to Kluth?

[redacted]
A. The inmate had his right arm, sir.

Nemeth
Q. Okay. You moved your left arm--

[redacted]
A. This was Deputy Kluth's left arm.

Nemeth
Q. Right.

[redacted]
A. That's about all he would've had. With this arm, he was trying to get the inmate's arm off his neck.

Nemeth
Q. Okay. So what you're saying, the inmate had Kluth in some kind of a neck hold with his--with the inmate's right arm, and Kluth was using his right arm and hand to try and remove that hold? Is that what you're saying? And then you motioned with your left arm. What was Kluth doing with his left arm?

[redacted]

A. Trying to block blows. The inmate was also trying to punch at him and it looked real fast like he was just trying to block off anything else with the inmate hitting him.

Nemeth

Q. The inmate was trying to punch with his, what would be his free arm, his left arm?

[redacted]

A. What would be his free arm, sir.

Nemeth

Q. Okay. Did you see any of those blows that the inmate was throwing land on Kluth?

[redacted]

A. Not really. My--I saw that for a split second. My sole focus though was the fact that he had it in--he had him in a choke hold around his neck.

Nemeth

Q. Who appeared to be in control of the situation from your view point?

[redacted]

A. The inmate.

Nemeth

Q. Okay. So tell me what happens next, then.

[redacted]

A. I--my first thing was to--I started running right toward it and I was going to try and punch at the inmate to try and get him off Deputy Kluth. The minute I went to swing and attempted to punch, they both went down to the ground and I would up punching at air. I then went down on my knees and immediately the inmate's right arm was free and was right in front of me and I immediately grabbed it and tried to get--tried to gain control of it, tried to get a hold of it.

Nemeth
Q. Alright. If I'm understanding correctly, when the inmate and Deputy Kluth went to the ground, the inmate then lost his neck hold on Kluth?

[redacted]
A. Yes.

Nemeth
Q. Immediately?

[redacted]
A. I have no--I don't know, sir.

Nemeth
Q. Well did he have him still in the neck hold after they hit the ground or--

[redacted]
A. I don't really remember, sir, because when they hit the ground, I immediately went for the arm.

Nemeth
Q. 'Cause it was free at that point, you're saying.

[redacted]
A. It was free at that point, It was in front of me, and I knew Deputy Kluth was more or less in the area, but I don't know if he was still in the choke hold, I didn't know if he was underneath the inmate more or less still, or had gone to the side of him. I just--the only thing I saw was the arm and it was right in front of me and just going to try and grab a hold of him.

Nemeth
Q. Okay. How did the inmate land when he--how did the inmate and Kluth land when they went to the floor?

[redacted]
A. Kluth, I'm not sure how Deputy Kluth landed. I'm not sure if he landed on his side, back, or front. The inmate more or less landed on his side at first and then wound up rolling to what would be his left, putting chest to the ground. That's why I had the right arm in front of me.

Nemeth
Q. Okay. For the tape, you're gesturing with your left shoulder. Is that the left shoulder that the inmate landed on his side?

[redacted]
A. Oh, I have no idea. Like I said, when he hit the ground, it was more or less--he would more or less have had to hit the ground and I'm sure if he was--

Schwab
A. If you're not sure, it's okay.

Nemeth
Q. Uh-huh.

[redacted]
A. I'm not sure, sir.

Nemeth
Q. Okay. What we've done in the effort to help illustrate your actions in this case is we've had a, for the lack of a better term, a schematic prepared of Module 4400. I want you to take a look at this. Tell me, does that look like it accre--accurately reflects the layout of that module? With this area here being the 4000 hallway, this being the--the one door, one gate to the module, and then this being the sally port area, officer's booth, showers, etcetera. There would be the gates, the row gates. Does that look to be an accurate representation?

[redacted]
A. Yes, sir.

Nemeth
Q. Okay. And what I'll ask you to do is sign your name on the bottom of this 'cause we'll have you illustrate different points and different positions on that. So just go ahead and sign your name on this form now. Okay. Now, show me where Kluth and the inmate were when you first rounded the corner, if you will. And I think the blind corner you were referring to on your left, is that this area right here?

[redacted]
A. Yes, sir.

Nemeth
Q. Okay.

[redacted]
A. That would have been--they would have been right there in this area, sir.

Nemeth
Q. Okay. Well draw a circle and put a [redacted] in it for [redacted], the inmate. Yeah, okay, we can make that a [redacted], uh-huh. And then draw a circle and put an "L" or a "K" in it for Kluth. Okay. Right in this area here. You drew the circles overlapping, is that indicating because he had Kluth close to his body in a--in that control hold or neck hold. Okay.

Schwab
A. He called it a choke hold.

Nemeth
Q. Choke hold. And how did--how did they--how did [redacted] land, if you remember? Does this help? Was [redacted] facing this way--

[redacted]
A. No, [redacted]--

Nemeth
Q. --or where wa--go ahead.

[redacted]
A. [redacted] would have been facing this way, sir.

Nemeth
Q. His face would've been looking on a--on an angle towards the deputy's control booth? Is that right?

[redacted]
A. It could've been at an angle. It could've been right at me. He was directly behind him, but he would've been facing this way.

Nemeth
Q. Put an arrow to show which way [redacted] was facing at the time he--he fell--

[redacted]
A. That was--

Nemeth
Q. --to the ground.

[redacted]
A. Okay, well I'd have to put it on an angle 'cause he could've been--

Nemeth
Q. Sure.

[redacted]
A. --facing this way--

Nemeth
Q. Uh-huh.

[redacted]
A. --or this way. This is the general area.

Nemeth
Q. Okay. Now which way was--was his head pointing? Was it more towards the mop closet, or was his head towards the gates?

[redacted]
A. It would be, yeah I would believe, more toward the gates.

Nemeth
Q. Okay, so that would mean his feet would be over in this area?

Schwab
A. Well, why don't you ask him where his feet were?

Nemeth
Q. Where were his feet, if his head's over here?

[redacted]
A. Well, no. His--his head's, sir? Is that--I'm--I'm sorry. I'm not understanding the question 'cause you're saying his feet would be back here and his head were over here. He wasn't leaning. He was directly behind Kluth.

Nemeth
Q. No, when they fell to the ground.

[redacted]
A. Okay, when they fell to the ground.

Nemeth
Q. Right. That's what we're talking about.

[redacted]
A. Okay.

Nemeth
Q. If you want to indicate a stick figure there if that helps you show how he landed on the ground that--that would be fine too.

[redacted]
A. That would've been more or less in--this way.

Nemeth
Q. Okay.

[redacted]
A. With his head right- here.

Nemeth
Q. Okay. That's [redacted]' head over here?

[redacted]
A. Yes.

Nemeth
Q. Okay. Just write, "head" for me right there. Okay. Now, is he on his back or on his stomach or on his sides or--or what when he lands?

[redacted]
A. I don't know how he landed exactly, on his side or his stomach. I know that when I went for the arm--

Nemeth
Q. Yes.

[redacted]
A. --he was already on his--he was already on his chest.

Nemeth
Q. He was on his chest, face--face down basically--

[redacted]
A. Yes.

Nemeth
Q. --in a prone position?

[redacted]
A. Not what I would call a prone position because he was lay--he was down but he was never just proned out more or less. Prone, to me, would be laying out there and not moving at all. He was the exact opposite.

Nemeth
Q. Okay. When I'm saying prone, I just mean was his body laying against the concrete floor here?

[redacted]
A. Yes.

Nemeth
Q. Okay. Face down, stomach down, chest down--

[redacted]
A. Yes.

Nemeth
Q. --towards the concrete?

[redacted]
A. Yes.

Nemeth
Q. Okay. So, you came in and you swung at him, but missed and didn't hit anything. Is that correct?

[redacted]
A. Didn't hit anything, sir.

Nemeth
Q. Because as you did that, they were falling. Is that right?

[redacted]
A. Yes, sir.

Nemeth
Q. Okay. And then when they fell, shortly after they fell, you found [redacted] to be in this position and you went for his right arm. Is that what you've said so far?

[redacted]
A. Yes, sir.

Nemeth
Q. Okay. That would be this arm here. Is that correct?

[redacted]
A. That'd be this arm here, sir.

Nemeth
Q. Okay. And tell me what you did at that point.

[redacted]
A. At that point, I--I grabbed for the arm and the first thing I noticed was that he was very sweaty, his arm was very wet, and I couldn't get a good control on it. I tried to grab elbow-wrist and could not. His arm immediately slipped out.

Nemeth
Q. Uh-huh.

[redacted]
A. That happened several times. I could not gain control of the arm. He was also thrashing about wildly. His head was--was--was moving. His legs were kicking. He attempted to get off the ground at a couple of times. To me, it appeared he was still--he was trying to fight and trying to fight. My only thing was to try and gain control of the arm, so then I tried a couple of--I tried to punch him. I tried punching in the upper area, in his shoulder, and--

Nemeth
Q. When you indicated upper area here, you lifted your right arm and indicated--

[redacted]
A. Right in this area here, sir. I took--

Nemeth
Q. Near the arm pit towards the back of the shoulder area?

[redacted]
A. Yes, sir.

Nemeth
Q. Okay.

[redacted]
A. Trying to see if I can get any compliance from his arm.

Nemeth
Q. Uh-huh.

[redacted]
A. Nothing. The arm--at one point he locked it out and I couldn't even bend it.

Nemeth
Q. When you say locked it out, locked it out away from his body this way?

[redacted]
A. Yes, sir. Locking it out in this position, having it out like--I couldn't even bend it.

Nemeth
Q. Okay, what you did is you extended your right arm out, held it, appeared stiff in a fist, and raised you first above your head. Is that an accurate description of what you did?

[redacted]
A. Yes, sir.

Nemeth
Q. Okay. And so he's locking his arm out. He's--is anybody saying anything to him at this point?

[redacted]
A. There was things being yelled. I screamed at him a couple of times, "Give me your arm. Give me your arm." You know, "Give me your arm."

Nemeth
Q. Uh-huh.

[redacted]
A. I heard other people screaming and yelling, "Stop fighting. Give," you know, I could hear somebody else saying, "Give me an arm." I didn't know if it was my-, you know, if they were trying to get his arm also or not. I just--I heard a lot of things being yelled, "Give me your arm. Stop fighting." My thing was just, "Give me your arm. Give me your arm."

Nemeth
Q. Okay. And where was [redacted] at this point?

[redacted]
A. Deputy [redacted] would have been to my left.

Nemeth
Q. On the same side of the inmate?

[redacted]
A. I don't know, sir.

Nemeth
Q. Okay. When you said your left then, would that mean towards the inmate's lower torso, legs area?

[redacted]
A. Yes.

Nemeth
Q. Okay. And you don't remember which side he was on, whether he was on the same side, the right side of the inmate, like you were, or whether he was on the left side of the inmate.

[redacted]
A. No, I don't.

Nemeth
Q. Don't remember.

[redacted]
A. I can't sir.

Nemeth
Q. How about Kluth? Where was Kluth at this point?

[redacted]
A. At that point I wasn't--I didn't really know where Deputy Kluth was. I was wondering if he was unconscious, if he was laying out. I--I really didn't see him. My whole--my sole focus went toward trying to get a hold of his right arm and the fact that I couldn't. He just--I couldn't get a hold of his arm.

Nemeth
Q. Was--was anybody attempting to restrain the inmate's left arm?

[redacted]
A. Not that I could see sir, no.

Nemeth
Q. Okay. Was anybody else there at this point besides yourself, Kluth, and [redacted] Anybody else in the module anywhere?

[redacted]
A. Not that I know of, sir. No, I didn't know. I knew that [redacted] was with me 'cause he had come in with me, and that was it.

Nemeth
Q. Okay. Well just to--you did say you saw Sloan standing at the officer's module door--

[redacted]
A. Yes, sir.

Nemeth
Q. --when you first arrived--

[redacted]
A. Yes, sir.

Nemeth
Q. --correct? Was he still there at this point?

[redacted]
A. Yes, I'm sure he--I'm sure he still was.

Schwab
A. (inaudible)

Nemeth
Q. Well, if you don't know--

[redacted]
A. Okay.

Nemeth
Q. You know (inaudible)--

[redacted]
A. No, I don't know because I wasn't--I wasn't looking that way to see if he was still there.

Nemeth
Q. Okay. Did you see any other deputies besides the four of you--

[redacted]
A. No, sir.

Nemeth
Q. --there?

[redacted]
A. Not--

Nemeth
Q. At this point?

[redacted]
A. At this point, no, sir.

Nemeth

Q. Okay. Alright, so where we left off with you attempting to restrain the inmate's right arm. He's holding it out with a fist at the end, stiff, above his head, what--what ultimately happens?

[redacted]

A. After I tried to punch at him and it--I was able to get no control over the arm, I then attempted to try and attempt a knee thrust into the side of his head to see if I could get any kind of compliance that way. And when I did, he jerked violently and my knee thrust missed, I missed completely, and I wound up falling across his upper, his upper back neck area.

Nemeth

Q. Okay. What knee did you attempt to thrust at him?

[redacted]

A. My right knee, sir.

Nemeth

Q. Okay. And you--you did actually thrust your knee at him. Is that correct?

[redacted]

A. Yes, sir.

Nemeth

Q. But you're saying it didn't make contact.

[redacted]

A. Did not make contact.

Nemeth

Q. Because the inmate jerked at--just as--

[redacted]

A. As (inaudible)--

Nemeth

Q. --were about to do it?

[redacted]
A. He was jerking back and forth and right when I tried to time it, it didn't happen, and I missed.

Nemeth
Q. Okay, so that was aimed at his head? Is that right?

[redacted]
A. Yes, sir.

Nemeth
Q. Okay. And as a result of your forward momentum, you fell across his, I think you said his neck area?

[redacted]
A. This would be his upper back, sir.

Nemeth
Q. Upper back?

[redacted]
A. Upper back, yeah.

Nemeth
Q. Okay. And what happened then?

[redacted]
A. I immediately tried to get off. He had exhibited to me signs that he was very, very violent and I didn't want to be anywhere that close to him, so I immediately, with my left hand, pushed off on his back and got back to where I was before on my knees trying to get a hold of the right arm. At that point, someone had gotten a hold of his left arm and his left arm was in the small of his back with a cuff on it. I grabbed at the right arm again and this time Deputy Sloan came in and also grabbed his right arm and, with both of us together, we were able to bring his right arm back behind into the small of his back and put the cuff on that one also.

Nemeth
Q. Okay. Do you know who was the person, the deputy responsible for securing the left arm with the hand cuffed and all that?

[redacted]
A. No. No, I don't, sir.

Nemeth
Q. Okay. Okay. Now during this time with the inmate, did the inmate punch you?

[redacted]
A. No, sir.

Nemeth
Q. Did the inmate kick you or knee you?

[redacted]
A. No. No, sir.

Nemeth
Q. Did the inmate--I think you said earlier you saw the inmate, upon your initial arrival into the module, swinging with his left arm, which was free, at Kluth.

[redacted]
A. Yes, sir.

Nemeth
Q. But you said you didn't see any of the blows contact him? Is that correct?

[redacted]
A. Not in the split second I saw it, sir. My--like I said, my focus went right back to the arm around his neck.

Nemeth
Q. Okay. And aside from that did you se--did any deputy get punched by the inmate?

[redacted]
A. I wouldn't know--I wouldn't know if any other deputies have (inaudible) or got punched, but no, I don't think so.

Nemeth
Q. Okay.

[redacted]
A. Don't really know, sir.

Nemeth
Q. Okay. Did you see the inmate kick at or kick any of the deputies?

[redacted]
A. I saw him kick at when he was kicking his legs, yes, sir.

Nemeth
Q. Who was he kicking at?

[redacted]
A. Whoever would've been to my left. Whoever would've been back there.

Nemeth
Q. Well that's what I'm asking you.

[redacted]
A. That would have been Deputy [redacted]

Nemeth
Q. Okay. Now you don't remember which side [redacted] was on? The left or the right?

[redacted]
A. No, sir.

Nemeth
Q. Okay. So when the--did you ever see anybody restrain the inmate's legs at any point?

[redacted]
A. Deputy [redacted] but that was when they were trying--when we were trying to hobble him. That was already after we got him handcuffed.

Nemeth
Q. Uh-huh. Did you see anybody arrive prior to the inmate being handcuffed and hold his legs down to the ground?

Schwab
A. Besides Sloan.

[redacted]
A. No.

Nemeth
Q. Besides Sloan. Beside the four that we've already talked about.

[redacted]
A. No, sir.

Nemeth
Q. Okay. During this incident, did any other deputies respond at all?

[redacted]
A. Yes, sir.

Nemeth
Q. And who were they?

[redacted]
A. After the fight was over and I had--I was already sitting on a milk crate trying to catch my breath, I saw Deputy Broad, and he was in there. And I saw Deputy Romero standing in the 4400, which would be this door right here, sir--

Nemeth
Q. Uh-huh.

[redacted]
A. --the 4400 module door.

Nemeth
Q. I see.

[redacted]
A. I saw him standing there. And there were other deputies, but I really wasn't--I was trying to catch my breath and I was huffing and puffing really hard. I really didn't notice everybody else

that was there. Other deputies walked in also 'cause I guess it had gone out on the radio by then.

Nemeth
Q. Uh-huh. Do you know if it went out on the radio?

[redacted]
A. I don't know. I can--

Nemeth
Q. Are you sure--

[redacted]
A. --only assume that if more deputies had shown up, somebody had gotten some word out that we were fighting.

Nemeth
Q. Okay. Okay, so you saw Romero standing at the 4400 control booth, officer's module control area, right?

[redacted]
A. Yes, sir.

Nemeth
Q. And you saw Broad, Deputy Broad. Where was Broad at?

[redacted]
A. He was standing--this was after the inmate was hobbled and everything, that's when I began to notice who was there. He would have been right here.

Nemeth
Q. Go ahead, draw a circle. Put a "B" in it for Broad. And Romero was over here?

[redacted]
A. Yes, sir.

Nemeth
Q. Where? Indicate wherever you show him. Okay. Do you know at what point--

Schwab
A. (inaudible).

Nemeth
Q. Sure. Do you know at what point Romero got there?

[redacted]
A. No, sir.

Nemeth
Q. Do you know at what point Broad got there?

[redacted]
A. No, sir.

Nemeth
Q. Anybody else that you saw arrive besides Broad and Romero, that you can remember a name? You say no other deputy showed up, but--

[redacted]
A. To what time they got there?

Nemeth
Q. No, just anybody else you saw there. Their names.

[redacted]
A. Um, Christolon, he was coming up from--he had been eating.

Nemeth
Q. Uh-huh.

[redacted]
A. So, I saw him when I stepped out of 4400. I saw Christolon come in and believe the other prowler that night with him was [redacted]. He was the other 4000 prowler.

Nemeth
Q. Okay. Anybody else?

[redacted]
A. No, sir. Senior Jackson and Sergeant Mosley.

Nemeth
Q. Okay. Anybody besides them?

[redacted]
A. Senior Turpin, who was the senior in the hospital. He's the that came up with the gurney.

Nemeth
Q. Anybody else?

[redacted]
A. No, sir.

Nemeth
Q. Did you ever see Deputy Kammer there?

[redacted]
A. I don't recall seeing Deputy Kammer there, sir. No.

Nemeth
Q. Did you see Deputy Barrett there?

[redacted]
A. No, sir.

Nemeth
Q. Okay. During the--the time where the handcuffs are being applied and you're attempting to restrain the inmate's arms, did you ever see Deputy Broad, who you saw after the (inaudible), did you ever see him holding either of the inmate's legs? Down to the floor?

[redacted]
A. I don't remember him holding the inmate's legs.

Nemeth
Q. Okay. Is it possible that he held them and you didn't take note of it because of, like you said earlier, you were concentrating your attention on the inmate and what you were doing?

Schwab
A. All--all you can say is what you know (inaudible).

[redacted]

A. No, because by that--by that time--when they--when the inmate was hobbled, I didn't help out and hobble him. I had already stood up, was trying to catch my breath. When they tried to hobble the inmate, there was already four or five, six, I'm not even sure how many were there, and I wasn't needed in there. There was no place for me to get in and just to hobble an inmate at that point, with him already being handcuffed, they didn't need more people in there.

Nemeth

Q. Who was hobbling the inmate?

[redacted]

A. Deputy [redacted] was--had control of the legs and I'm not exactly sure who applied the hobble.

Nemeth

Q. Okay. All right. Okay, now you wrote a report on this, correct?

[redacted]

A. Yes, sir.

Nemeth

Q. Okay. And I see it in front of you. Have you had a chance to review your supplemental report that you wrote in this case?

[redacted]

A. Yes, sir.

Nemeth

Q. Did you write anything else besides this report?

[redacted]

A. No, sir.

Nemeth

Q. Okay. Did you take any notes on this incident?

[redacted]

A. No, sir. Not that I remember, no.

Nemeth
Q. When did you prepare this report?

[redacted]
A. This would've been that--one, two, to three hours after the incident. It's in the middle of the night during the early morning shift.

Nemeth
Q. Okay. Did you submit it for approval?

[redacted]
A. Yes, sir.

Nemeth
Q. Who'd you submit it to for approval?

[redacted]
A. Sergeant Duncan, who was the acting watch commander that night.

Nemeth
Q. Did he approve it?

[redacted]
A. Yes, sir.

Nemeth
Q. Were you there when he approved it? I mean, did he sign his name on it or anything like that?

[redacted]
A. No, sir. I don't remember being there when he signed it.

Nemeth
Q. But you submitted it to him for approval. Is that what you're saying?

[redacted]
A. Yes, sir.

Nemeth
Q. And you were never notified that there needed to be any modifications or corrections to it.

[redacted]
A. No, sir.

Nemeth
Q. Okay. Where did you write this report three hours after the incident?

[redacted]
A. That would have been in the watch deputy's office.

Nemeth
Q. Were you alone or were there other people in there with you?

[redacted]
A. I believe whoever was the watch deputy at that time was there. There might've been other people coming in and out, but I believe all four of us were at different desks writing it out.

Nemeth
Q. In that same office?

[redacted]
A. Yes, sir.

Nemeth
Q. And when you say the four of us, who are you referring to?

[redacted]
A. That would have been Deputy [redacted] Sloan, Deputy Kluth. And Deputy [redacted] was gone for awhile 'cause he had a report that was held over from p.m.'s that he never finished. That, he was writing up on 5000.

Nemeth
Q. Okay. So you said [redacted] Kluth, yourself, and--

[redacted]
A. Deputy Sloan.

Nemeth
Q. Okay. Now when you--following this incident, you said Sergeant Mosley arrived, correct?

[redacted]
A. Yes, sir.

Nemeth
Q. What--at what point did Sergeant Mosley arrive? In correlation to what was going on with the inmate?

[redacted]
A. After the inmate had been hobbled, sir.

Nemeth
Q. After the inmate had been both handcuffed and hobbled?

[redacted]
A. Yes, sir.

Nemeth
Q. Okay. Did you tell Sergeant Mosley about your involvement in the incident?

[redacted]
A. I don't remember--I don't remember if I did, sir. Remember that the, the inmate had been turned over on his side so he could breathe properly and then he came in and I'm not sure if it was--(END OF SIDE A OF TAPE 1)--

Nemeth
Q. Okay. We left off on the other side with--last question was you don't know who told Sergeant Mosley what had happened.

[redacted]
A. No, sir.

Nemeth
Q. Okay. But did you, yourself, tell Sergeant Mosley about your personal involvement in this event?

[redacted]
A. I don't remember, sir.

Nemeth
Q. Okay. Did you ultimately tell a supervisor about what had gone on?

[redacted]
A. Yes, sir.

Nemeth
Q. Okay. And who was that?

[redacted]
A. That was Sergeant Duncan, sir.

Nemeth
Q. And was he the acting watch commander that evening?

[redacted]
A. Yes, sir.

Nemeth
Q. Okay. And did you--what--what did you tell him? Essentially what your report says here?

[redacted]
A. Yes, sir.

Nemeth
Q. Okay. Now what academy class did you go through? Go through?

[redacted]
A. Class 277, sir.

Nemeth
Q. Okay. And when you went through the academy, did you--were you instructed in the Sheriff's Department's policy regarding the use of force and witnessing use of force and reporting the use of force?

[redacted]
A. Yes, sir.

Nemeth
Q. Okay. And upon graduation of the academy, did you go through some training regarding custody situations?

[redacted]
A. That would've been custody--it's referred to as Custody Ops, yes, sir.

Nemeth
Q. Okay. How long is Custody Ops training?

[redacted]
A. I believe it was--I believe it was two weeks for us. It's three weeks now. Think it might've been two weeks.

Nemeth
Q. Okay. Eighty hours of training. In--in some point in that training, was force, the use of force, reporting use of force covered during that training?

[redacted]
A. During Custody Ops, I don't remember, sir.

Nemeth
Q. Okay. And upon being assigned to Men's Central Jail, was the topic of force, use of force, reporting and witnessing the use of force covered during recurrent briefings?

[redacted]
A. Yes, sir.

Nemeth
Q. Okay. And do you remember being present at briefings when that was discussed?

[redacted]
A. The use of force policies?

Nemeth
Q. Yes.

[redacted]
A. Yes

Nemeth
Q. Okay. I'd like you to briefly, in your own words, tell me what you understand the Sheriff's Department's use of force policy to consist of.

[redacted]
A. Use--use no greater force than is needed in apprehending a suspect.

Nemeth
Q. Okay.

Schwab
A. Overcoming resistance.

[redacted]
A. That's--I'm sorry.

Schwab
A. Overcoming resistance.

[redacted]
A. Overcoming the resistance.

Schwab
A. (inaudible).

Nemeth
Q. Okay. Well we--I appreciate Miss Schwab's trying to assist you, but what we need to do is get your understanding, okay?

[redacted]
A. Okay.

Schwab
A. Is that your understanding, [redacted]? That you just stated?

[redacted]
A. Yes.

Nemeth
Q. Okay.

Nemeth
Q. Well, now it is, yes. Well--well let me just say, what Miss Schwab said--

Schwab
A. Let me just--

Nemeth
Q. --is it probably did come up for the record. What she said is that--is that your understanding of it. And what she had said, in case the tape didn't--

Schwab
A. You're--

Nemeth
Q. --pick it up was--

Schwab
A. You're--you're trying to infer that's not his understanding and he just stated that it was his understanding.

Nemeth
Q. Okay. Just for purposes of the record, what we need to do is ask you from your own mind, without suggestion or outside help--

[redacted]
A. Yes, sir.

Nemeth
Q. --okay, just what you understand, okay? And if you want to clarify it later, that's fine, okay? We just need to get what you understand to be--because based on what you understand is what you're gonna react to and what you're gonna do, right? Based on your understanding, not somebody else's, correct?

[redacted]
A. Yes, sir.

Nemeth
Q. Okay. Now you stated to me what you--overcoming the resistance of another and using only that force necessary to accomplish that. Is that your understanding?

[redacted]
A. Yes, in essence.

Nemeth
Q. Okay. Now how about reporting use of force. What's your understanding about the policy regarding reporting--

[redacted]
A. Reporting the use of force--

Nemeth
Q. Right.

[redacted]
A. --you report all force that you used in the incident.

Nemeth
Q. Okay. All right. And who do you report that to?

[redacted]
A. To whoever your supervisor is at that point, your immediate supervisor. If it's told to report to another supervisor, go ahead. If the immediate supervisor's not present, to whoever the immediate supervisor is that is there. You're supposed to report it immediately.

Nemeth
Q. Okay.

[redacted]
A. Whether it's the senior deputy, whether it's an acting senior, acting sergeant, desk sergeant. Whoever the immediate supervisor is, you report it to.

Nemeth
Q. Okay. And what's your understanding as far as witnessing force? Not personally using force, but--but witnessing some other deputy use force. What's your understanding of the Department's policy regarding that type of situation?

[redacted]
A. To report force that you witnessed what--that you knew--that you--that you've seen-to report it. If--if you're a witness at the scene of an incident where force was used, you are to report it.

Nemeth
Q. Okay. And who do you report it to under that circumstance?

[redacted]
A. That would also be to your immediate supervisor.

Nemeth
Q. Okay. All right.

Schwab
A. Or whoever you're directed to.

[redacted]
A. Or who--whoever you're directed to.

Nemeth
Q. Okay. All right. So, that night when you ultimately spoke to Sergeant Duncan, who was the acting watch commander, correct?

[redacted]
A. Yes, sir.

Nemeth
Q. Okay, when you did that, who was with you? Were you by yourself, or were you, were you with someone else?

[redacted]
A. I was with Deputies Kluth, Deputy Sloan, and Deputy [redacted]

Nemeth
Q. Okay. And you told--you notified Sergeant Duncan of what happened. Is that right?

[redacted]
A. Yes, sir.

Nemeth

Q. Okay. Did you--did you tell Sergeant Duncan that Deputy Romero was present in the module and had relieved Deputy Sloan at the control booth position?

[redacted]

A. I don't--I don't remember telling him that. No, sir.

Nemeth

Q. Okay.

Schwab

A. And--and again. This is a separate interview, sergeant, but we requested all prior statements that are attributed to Deputy [redacted] and any other of the deputies in this incident by Sergeant Duncan and Sergeant Mosley. You represented previously that Sergeant Mosley said he recalled only what was stated in his report and that you have not yet interviewed Sergeant Duncan and you have no--well, you have not yet interviewed Sergeant Duncan, so therefore you have only reports that are redacted that you've provided to us. We've not seen the rest of the other reports, obviously, they're edited when you gave them to us. Is that still your representation?

Nemeth

Q. Yes it is, thanks. Just to briefly recap. What we provided your representative with in regards to prior statements you made in this incident was your supp report what you are looking at here.

[redacted]

A. Yes, sir.

Nemeth

Q. And attached to this packet of information is Deputy Kluth's first report--

[redacted]

A. Yes, sir.

Nemeth

Q. --and supp report submitted by Deputy [redacted] and Deputy [redacted] and also the Use of Force Memorandum prepared by Sergeant Mos--Van Mosley in this case and--

Schwab
A. No. That's a redacted version. (Inaudible)

Nemeth
Q. No, Sergeant Mosley's report is this one and there's nothing redacted from that.

Schwab
A. That's a complete report?

Nemeth
Q. What is redacted that you are referring to is a Use of Force Memorandum prepared by the acting watch commander, Sergeant Duncan, who you spoke to that night.

[redacted]
A. Yes, sir.

Nemeth
Q. And the only portion of that memorandum which contained any reference to statements that you or any of the other deputies made is these two sentences here, which is all that you are entitled--you and your representative are entitled to receive. And then there is an additional memorandum prepared by Sergeant Duncan which I also provided in its entirety. So, that's all we have. That's accurate. When you talked to Sergeant Duncan did he ask you was anybody else there? Were there any other witnesses to this event?

[redacted]
A. I don't really recall, sir. I remember that he asked Sloan, Deputy Sloan to check to see if there were any witness there.

Nemeth
Q. Okay. All right. Did you at that point, state that Deputy Romero had been the person who had relieved Kluth at the module 4400 control booth?

[redacted]
A. Deputy Romero relieve Kluth, sir?

Nemeth
Q. I mean, I'm sorry, not Kluth but--

Schwab
A. Sloan.

Nemeth
Q. --Sloan?

[redacted]
A. I didn't know that, sir.

Nemeth
Q. Well, a minute ago--

[redacted]
A. Yes, sir?

Nemeth
Q. --when we were talking you said that Sloan came and joined--

[redacted]
A. Uh-huh.

Nemeth
Q. --yourself and Kluth and [redacted] in trying to restrain inmates [redacted]. Correct? And then at the end of the event you saw Romero standing at the module 4400 control booth, correct?

[redacted]
A. Yes, sir.

Nemeth
Q. Okay. Question is. Did you ever tell Sergeant Duncan that Deputy Romero had arrived at the module and taken up the position at the module 4400 deputy control booth?

[redacted]
A. No, sir. I never told Sergeant Duncan that.

Nemeth
Q. Okay.

Schwab

A. He also stated previously that he didn't know that that's what exactly had happened.

Nemeth

Q. Okay.

Schwab

A. Because he was involved with the inmate at the time.

Nemeth

Q. Okay, but you did state that you saw Romero standing at the control booth when you did look up. Correct?

[redacted]

A. When I looked up from sitting on a milk crate to catch my breath. Yes, sir.

Nemeth

Q. Right. And you stated that you didn't know what time or when Romero got there, correct?

[redacted]

A. No, sir.

Nemeth

Q. Okay. And you stated that you didn't know when Broad got there but then when you looked up he was also there, correct?

[redacted]

A. Yes, sir.

Nemeth

Q. Okay. Did you tell Sergeant Duncan or Sergeant Mosley that Deputy Broad was present at this event?

[redacted]

A. No, sir.

Nemeth

Q. Okay. And is there a reason why you didn't do that?

[redacted]
A. Sergeant Mosley and Senior Jackson were more or less getting a hold of everybody who had been involved with the incident. My thing was, we had gone down and talked to Sergeant Duncan and after that we were told don't do anything until Internal Affairs gets here. That was it.

Nemeth
Q. Okay. Was Sergeant Mosley or Senior Jackson present during the use of force?

[redacted]
A. No, sir.

Nemeth
Q. Okay. So, how did they ultimately learn who was involved in the use of force?

Schwab
A. If you know.

[redacted]
A. I don't know, sir.

Nemeth
Q. Did somebody report to him?

[redacted]
A. To Sergeant Mosley?

Nemeth
Q. Yes.

[redacted]
A. I'm sure someone did sir.

Nemeth
Q. But you don't remember talking to Sergeant Mosley, yourself?

[redacted]
A. I don't remember talking to Sergeant Mosley, myself. No, sir.

Nemeth
Q. Okay. Okay. All right. When you were present in the module did you see any inmates that may have been in a position to witness this event?

[redacted]
A. No, sir.

Nemeth
Q. And did you see any inmates in the Baker row shower?

[redacted]
A. No, sir.

Nemeth
Q. Did you see an inmate standing near the Charlie row gate, upon your arrival into the module?

[redacted]
A. No, sir.

Nemeth
Q. Did you see an inmate on the pay phone near the one gate entry door to module 4400?

[redacted]
A. No, sir.

Nemeth
Q. No. Did you see an inmate in the--what's indicated on the schematic as the laundry room area of the module?

[redacted]
A. No, sir.

Nemeth
Q. Okay. Did you see a trusty on the Denver row upper tier freeway?

[redacted]
A. No, sir.

Nemeth
Q. Okay. When you described to us everything you done with the inmate did you leave anything out?

[redacted]
A. No, sir.

Nemeth
Q. That was your--what you described to us earlier was your entire interaction with the inmate?

[redacted]
A. Yes, sir.

Nemeth
Q. Did you ever touch the inmate's scrotum?

[redacted]
A. No, sir.

Nemeth
Q. Or his testicles?

[redacted]
A. No, sir.

Nemeth
Q. Did you ever kick the inmate?

[redacted]
A. No, sir.

Nemeth
Q. Other than the attempted or the knee thrust that you applied which missed, did you do any other knee thrusts?

[redacted]
A. No, sir.

Nemeth
Q. Did you do any other punches besides the ones you described that you made contact with the inmate's right shoulder and arm pit area?

[redacted]
A. No, sir.

Nemeth
Q. Did you--did the inmate at any time lock and when he locked his arm out and you raised your arm above your head and made a fist, did he grab onto the bars of the Baker row shower in front of him, to hold his arm out in resistance?

[redacted]
A. I don't recall that, sir. No.

Nemeth
Q. Don't recall that?

[redacted]
A. No.

Nemeth
Q. Did you ever state to the inmate that you would break his fingers if he didn't release his hold on the bars?

[redacted]
A. No, sir.

Nemeth
Q. Okay. Did you ever use any profanities when you were dealing with the inmate, and vulgarities in order to get him to comply?

[redacted]
A. I don't remember that, sir. No, sir.

Nemeth
Q. Is it possible you did?

[redacted]
A. I don't know, sir. I just remember the one thing I do remember yelling is, "Give me your arm."

Nemeth
Q. Uh-huh. Okay. All right. Whoops. Hold on a second. Okay. During the incident or actually after the incident, did Deputy

Broad or Deputy Kammer tell you that they had been present at the use of force and hold the inmate's legs down?

[redacted]
A. No, sir.

Nemeth
Q. You never heard that before today?

[redacted]
A. Heard--

Nemeth
Q. That Kammer and Broad were present and held the inmate's legs down?

[redacted]
A. No sir.

Nemeth
Q. This is the first you ever hearing about it?

[redacted]
A. It's the first time I remember, sir.

Nemeth
Q. First time that you remember hearing about it. So, it's possible you heard about it before and you just don't remember?

[redacted]
A. Over a year ago, after the incident, yes. But, it's the first time years.

Nemeth
Q. Okay. All right. Sergeant Gjendem.

Gjendem
Q. Yep. When you went down stairs did a--from 5000, did [redacted] have a radio?

[redacted]
A. Yes, sir.

Gjendem

Q. Getting back to the inmates. When you first went inside the module, here and you had came inside the main gate from the hallway into 4400, you described how Kluth and [redacted]--the direction they were facing.

[redacted]

A. Uh-huh

Gjendem

Q. I'd like for you to describe how Kluth and [redacted], what position were then in. Were they bent at the knees? Were they hunched over? Were they standing erect with his--the head inside the choke hold? I'd like for you to describe that for me.

[redacted]

A. The inmate appeared to be standing. He appeared to be standing erect. He had his right arm with his right bicep into Kluth's right neck area with his left forearm into Kluth's left neck area, in a choke hold. Kluth appeared to be bending at the knees. He appeared to be, in my opinion, he appeared to be buckling, and that's why I though he was going unconscious. His knees were bent. He didn't--he was breathing really hard and the inmate for all--to me appeared to have the complete upper hand.

Gjendem

Q. Okay. Where was [redacted]' left arm at?

[redacted]

A. Ah, that would have--

Gjendem

Q. Hanging from the side?

[redacted]

A. No, not hanging, sir. He was using it to try and direct punches from Kluth.

Gjendem

Q. Okay. So, if I understand you correctly, [redacted] has just one arm around Kluth's neck?

[redacted]
A. Yes, sir.

Gjendem
Q. And Kluth is--and then the inmate's punching him with his left hand in the head area or could you tell?

[redacted]
A. It was a split second. I just him trying to throw some punches.

Gjendem
Q. And you said, I believe you said, that Kluth had a hold with one of his hands trying to pull the arm down from away from his neck. Correct?

[redacted]
A. With his right arm.

Gjendem
Q. Okay. And Kluth was not able to bring that arm down?

[redacted]
A. No, sir.

Gjendem
Q. With the inmate just holding him with one arm around the neck?

[redacted]
A. Yes, sir.

Gjendem
Q. Was Sloan standing at the doorway when you first went in?

[redacted]
A. Yes, sir. He was in 4400.

Gjendem
Q. Was he looking at Kluth and [redacted]?

[redacted]
A. He was looking to his left, sir.

Gjendem
Q. He was looking right at the two?

Schwab
A. Well, do you know?

[redacted]
A. I don't know.

Gjendem
Q. Okay. Did you see, I believe you said when you got in there they were both still standing erect, correct?

[redacted]
A. The inmate was standing erect. Yes, sir.

Gjendem
Q. Okay. And the Deputy Kluth was also, for intents and purposes, bent at the knees a little bit, right? And bent over at the waist?

[redacted]
A. Yes, sir.

Gjendem
Q. Did you see them fall to the floor?

[redacted]
A. Yes, sir.

Gjendem
Q. Okay. I think you said you even took a punch--

[redacted]
A. Yes, sir.

Gjendem
Q. --at the inmate, prior to him falling?

[redacted]
A. Yes, sir.

Gjendem
Q. Did you mention in your report that you took a punch at the inmate and missed?

[redacted]
A. No, sir.

Gjendem
Q. Can you tell me why?

[redacted]
A. No, sir. I just--

Schwab
A. Did you forget that (inaudible)?

[redacted]
A. No, sir. No. No, I did not.

Gjendem
Q. Yet, later on down in your report you said you attempted a knee thrust and you didn't hit there. Correct?

[redacted]
A. Yes, sir.

Gjendem
Q. But you mentioned that one?

[redacted]
A. Yes, sir.

Schwab
A. But in that instance you made contact with the inmate by falling across him, did you not?

[redacted]
A. I fell across his upper back.

Gjendem
Q. But you mentioned that your knee thrust missed and didn't connect with him, correct? With your knee.

[redacted]
A. Yes, sir. That's in my report.

Gjendem
Q. How long was Kluth pulling onto that right arm that you know of? Prior to him falling. I mean, from the time you got in there and you observed what was going on, how many seconds was it before the inmate and Kluth fell to the floor?

Schwab
A. Do you understand the question?

[redacted]
A. Yes, I understand the question. Three seconds. Four seconds. It was very fast from the time it took me to turn the corner to get right up to them as they fell.

Gjendem
Q. Okay. And Kluth with his right arm was pulling down on, pulling, trying to get [redacted]' right arm away from his neck. Correct?

[redacted]
A. Yes, sir.

Gjendem
Q. Did you tell the Sergeant Duncan that you had seen Kluth pull the inmate's right arm away?

[redacted]
A. No, sir.

Gjendem
Q. Kluth was trying to overcome some resistance at that point, correct?

[redacted]
A. Yes, sir.

Gjendem
Q. And that would have been reportable force, correct?

Schwab
A. Well, by whom, though. It's reportable by Kluth, not by other of the deputies.

Gjendem
Q. Would that be reportable force in your opinion? Are you required to report?

[redacted]
A. I don't know, sir.

Gjendem
Q. You don't know?

Schwab
A. Ah, but, Deputy [redacted] what were you told to report in your--

[redacted]
A. I was told to report my force that I used against the inmate.

Gjendem
Q. But you witnessed somebody else use force also, correct?

[redacted]
A. If you call trying to not be choked out--I'd don't--

Schwab
A. Would you consider that force at the time?

[redacted]
A. No, sir. I mean, no, I did not.

Gjendem
Q. Well, Kluth is trying to overcome some resistance. Correct? That the inmate has around his neck.

[redacted]
A. Yes, sir.

Gjendem
Q. Okay. I believe you said you weren't sure who applied the rip hobble, is that correct? To the inmate [redacted].

[redacted]
A. Yes, sir.

Gjendem
Q. Did you get a chance to look at your report, page two? Second paragraph there.

[redacted]
A. Yes, sir.

Gjendem
Q. Do you know now who applied the rip hobble?

Schwab
A. Well, are you asking him to read from his report?

Gjendem
Q. I asked him to look at his report.

Schwab
A. But, all he can answer today is what he recalls. If you want him to tell you what's in the report, he'll read that to you.

Gjendem
Q. Well, does this refresh your memory now that you've read your report?

[redacted]
A. Yes, sir.

Gjendem
Q. And what does that say?

[redacted]
A. It says a deputy--it says Deputy Sloan then applied the rip hobble to suspect [redacted] legs.

Gjendem
Q. So, are you still unsure who applied the rip hobble?

[redacted]
A. No, sir. It was Deputy Sloan.

Gjendem
Q. Okay. Did you ever see any blood?

[redacted]
A. Yes, sir.

Gjendem
Q. Where was the blood?

[redacted]
A. It was underneath the inmate's--underneath his face, sir.

Gjendem
Q. Do you know where the blood came from?

[redacted]
A. No, sir.

Gjendem
Q. Did it come from you?

[redacted]
A. I'm sorry, sir?

Gjendem
Q. Did it come from you?

[redacted]
A. No, sir.

Schwab
A. Don't yell. You're not enunciating your words. It's not the volume, it's your enunciation. Please do not yell at the deputy.

Gjendem
Q. Thank you very much. After the inmate was handcuffed behind his back--

[redacted]
A. Yes, sir.

Gjendem
Q. --and before the rip hobble was replaced, did you say he was trying to turn over on his side or anything like that? The inmate.

[redacted]
A. After I got up and after he had been handcuffed, he started kicking his legs. He started to move again, started to squirm, started to try and it looked like he was still trying to back in a fight.

Gjendem
Q. And it was at that point you went over and sat down on the milk crate?

[redacted]
A. No. I was standing up, more or less, in front of this door right here, about the mop closet area, sir.

Gjendem
Q. So, this inmate's still squirming around. Was he trying to get up, stand up?

[redacted]
A. I wouldn't know that, sir.

Gjendem
Q. You don't know?

[redacted]
A. No, sir.

Gjendem
Q. Who was holding him down when he was trying to get up, then?

[redacted]
A. That would have been Deputy [redacted]

Gjendem
Q. By himself?

[redacted]
A. I recall he was the one that went to the inmate's legs after the handcuffs had been applied and the inmate started to try and

move again. Deputy [redacted] was the one that got on his legs again. So, to control the movement of his legs.

Gjendem
Q. Where's Kluth at, at this time?

[redacted]
A. I don't recall where he was, sir.

Gjendem
Q. So, the inmate is basically struggling down there on the floor, moving his legs and everything.

[redacted]
A. Uh-huh.

Gjendem
Q. And, [redacted] grabs the legs by himself?

[redacted]
A. He got in the inmate's legs just to control the moving legs. Yes sir.

Gjendem
Q. Okay. And nobody else assisted him at that time that you know of?

[redacted]
A. No sir. Not that I know.

Gjendem
Q. You talked about Sergeant Duncan, the watch commander approving your report, correct?

[redacted]
A. Yes, sir.

Gjendem
Q. Tell he how he approved the report? Give you a nod of the head? Or he said it's Okay? Or how did he approve of your report?

[redacted]
A. I don't believe I was there when he did that, sir. The way we did was we were told that Internal Affairs was not going to be there. To go ahead and write our additional reports. I wrote my additional report and it was handed in with all four reports.

Gjendem
Q. When you say handed in, was it handed over to Sergeant Duncan?

[redacted]
A. I don't remember, sir.

Gjendem
Q. You don't remember where you put at or who you gave it to?

[redacted]
A. No, sir. I don't. I believe it was given there in the watch commander's office.

Gjendem
Q. In a tray or to somebody?

[redacted]
A. It would have been--that would have been to the incoming watch commander's tray.

Gjendem
Q. Was Sergeant Duncan still around when you turned the report in?

[redacted]
A. I don't remember, sir.

Gjendem
Q. When you were running down to 4400, did you see anybody trailing behind you or anything when you were running along with you and [redacted]

[redacted]
A. No, sir.

Gjendem
Q. Had you been alerted that anybody else was rolling?

[redacted]
A. No, sir.

Gjendem
John.

Nemeth
Q. All right. When you first heard the call. What time did you say you thought it was? When you made the telephone call inquiring about chow relief, that's what started your involvement in this event, correct?

[redacted]
A. Yes, sir.

Nemeth
Q. What time was that phone call that you made?

[redacted]
A. Twelve-thirty, twelve-thirty p.m.

Nemeth
Q. A.M.?

[redacted]
A. A.M. I'm sorry, sir. Twelve-thirty a.m.

Nemeth
Q. Okay. And that's when you were, you said you were basically put on hold for several seconds and then you heard Sloan come back and say, there was something ongoing, correct?

[redacted]
A. Yes, sir.

Nemeth
Q. Okay. Did you ever--did the thought ever cross your mind that to respond down there like you did, but hand the phone to Deputy McGroarty who was working the 5000 booth so he could obtain additional information as to who was involved, how many inmates were involved. Things of that nature?

[redacted]
A. No, sir. He was at the front area of the control booth. There's a phone up there. And I was in the rear area of the control booth. There's a phone on the senior's desk.

Nemeth
Q. Different extensions, so, you can't--

[redacted]
A. No. It's the same lines.

Nemeth
Q. So, he could just pick up and be on the same line?

[redacted]
A. Yes, sir. He could.

Nemeth
Q. Is there a phone close to him that he could have just picked up and got on the line with?

[redacted]
A. Yes, sir.

Nemeth
Q. Okay. That didn't happen though, right?

[redacted]
A. No, sir.

Nemeth
Q. Did it not occur to you or any reason why that didn't happen. Why you didn't tell him, "Hey, pick up the phone. There's something going on and get the details. I'm going to get down there." Did that--

[redacted]
A. But I only--No, sir. The only thought for me was to get down there and assist the deputy.

Nemeth
Q. Okay. That night did you possess a flashlight?

[redacted]
A. Yes, sir.

Nemeth
Q. Okay. Did you use it all in the event?

[redacted]
A. No, sir.

Nemeth
Q. Okay. Did you see any deputies use a flashlight to strike the inmate?

[redacted]
A. No, sir.

Nemeth
Q. Did you see any of the deputies use any impact weapon to strike the inmate?

[redacted]
A. No, sir.

Nemeth
Q. Did you possess OC spray that night?

[redacted]
A. To my knowledge, I don't--

Nemeth
Q. Pepper spray?

[redacted]
A. Yes, sir. I don't think I had been trained at that time.

Nemeth
Q. Okay. Did anybody use pepper spray that night?

[redacted]
A. No, sir.

Nemeth
Q. Okay. When you got the notification at approximately twelve thirty, how long did you think it took you and [redacted] to get from where you were on 5000 control booth to module 4400?

[redacted]
A. Twenty, fifteen, twenty seconds, maybe. Twenty-five seconds. Somewhere in there.

Nemeth
Q. Okay. And do you know how long the force had been ongoing before your arrival?

[redacted]
A. No, sir.

Nemeth
Q. You don't know for sure, do you?

[redacted]
A. No, sir.

Nemeth
Q. Okay.

Schwab
A. You mean the force being used by the inmate against Deputy Kluth?

Nemeth
Q. Right. The event. The force incident. How long it had been ongoing, you don't know, do you?

[redacted]
A. No, sir.

Nemeth
Q. Okay. And when you got there, from the time you personally got there and threw your first punch which did not contact anything, how long until the inmate was hobbled from that first punch that you threw until when the inmate was hobbled, what amount of time elapsed?

[redacted]
A. Minute to a minute and half, probably no longer than two minutes.

Nemeth
Q. Okay. Two minutes, tops? Probably more like a minute or a minute and a half?

[redacted]
A. Somewhere in that range. Yes, sir.

Nemeth
Q. Okay. All right. At the end of the incident, did you see Deputy Sloan there?

[redacted]
A. Yes.

Nemeth
Q. Okay. After the inmate is hobbled. Did you hear Deputy Sloan address an inmate in the Baker row shower and tell him to turn around?

[redacted]
A. No, sir.

Nemeth
Q. Now, did you see any deputy kick the inmate?

[redacted]
A. No, sir.

Nemeth
Q. Did you see any deputy, in the attempts to restrain the inmate, did you see any deputy near the inmate's groin area?

[redacted]
A. No, sir.

Nemeth
Q. Did you at some point learn of the inmate's injuries?

[redacted]
A. Yes, sir.

Nemeth
Q. What injuries did you learn of?

[redacted]
A. When we had him down in the clinic I observed a small gash, I can't really remember which eye it was above, I believe it would have been, it might have been his left eye. But he had a small gash that--they had cleaned his face off and he had a small little gash, here. I later heard that he had lost a testicle.

Nemeth
Q. Okay. When you said the gash you made a motion with your left index finger across the top of your left eyebrow--

[redacted]
A. Yes, sir.

Nemeth
Q. --towards the outside edge. Is that where you indicated?

[redacted]
A. Yes, sir.

Nemeth
Q. And that's because that's where you saw the injury on the inmate?

[redacted]
A. It was to his left or right above there, I think it was his left, but I'm not really sure. I know it was above the--

Nemeth
Q. Above the eyebrow line? Where you indicated?

[redacted]
A. Yes, sir.

Nemeth
Q. Okay. And you do you know how the inmate got that injury?

[redacted]
A. No, sir.

Nemeth
Q. When you arrived and they went to the floor--

[redacted]
A. Uh-huh.

Nemeth
Q. --Did you see the inmate bleeding at that point?

[redacted]
A. No, sir.

Nemeth
Q. Did you see the inmate, I think Sergeant Gjendem asked you and you said you saw blood at some point in the incident, correct?

[redacted]
A. Yes, sir.

Nemeth
Q. Okay. Do you remember at what point during the incident you saw it?

[redacted]
A. When Sergeant--

Nemeth
Q. Okay. You said when you got there or when Sergeant Mosley got there, just before you he there--

[redacted]
A. Uh-huh.

Nemeth
Q. --I guess is what you said and you turned the inmate on his side?

[redacted]
A. The inmate had been turned on his side so he could breathe properly and there was a pool of blood on the ground, underneath his face.

Nemeth
Q. Okay. Who turned the inmate on his side? If you know.

[redacted]
A. I don't remember, sir.

Nemeth
Q. Okay. Was it you?

[redacted]
A. No, sir.

Nemeth
Q. Okay. Well, how big was this pool of blood under the inmate's face?

[redacted]
A. An inch, inch and a half. Two inches maybe in there.

Nemeth
Q. In diameter? Okay. Circle is that--that I'm envisioning? Well, the size of a quarter or--

[redacted]
A. No. No. It would have been bigger than that. Maybe approximately, this size. A lot of it was, he had a beard, and a lot of the blood had gone onto his beard on the side of his face.

Nemeth
Q. Okay. What you did a minute ago, you held both your hands together, indicated about the size of a baseball or something, is that about right?

[redacted]
A. Yes, sir.

Nemeth
Q. Okay. All right. And you don't know how the inmate sustained that injury, you said?

[redacted]
A. No, sir.

Nemeth
Q. And the first, you noticed of the blood, was when you after the inmate was hobbled and handcuffed and turned on the side. Is that correct?

[redacted]
A. Yes, sir.

Nemeth
Q. All right. And as far as the testicle injury, you said you later learned that the inmate lost a testicle which was surgically removed?

[redacted]
A. Yes, sir.

Schwab
A. No. He didn't say that.

Nemeth
Q. All right.

Schwab
A. He said he learned he lost a testicle.

Nemeth
Q. Okay. Learned he lost a testicle and you don't mean he lost it fell out or something, you learned that it was removed surgically, is that right?

[redacted]
A. Yes, sir.

Nemeth
Q. Okay. Did--do you know what caused that injury to the inmate?

[redacted]

A. No, sir.

Nemeth

Q. Okay. If some deputies would have kicked the inmate in the groin, would you tell us that?

[redacted]

A. Yes, sir.

Nemeth

Q. Okay. Do you think that under the circumstances, kicking the inmate in the groin would be a--an appropriate use of force?

[redacted]

A. It didn't happen when we were there. I don't know what would--that's something that's not taught. So, no, sir.

Nemeth

Q. Okay. Well, do you have any idea how he sustained this injury. You're saying it didn't happen when he was there. I mean, how did it come to pass that he lost a testicle?

[redacted]

A. That I don't know, sir.

Nemeth

Q. You don't know. There's nothing that you saw there that night that could even remotely come close to causing an injury that requiring the removal of this inmate's testicle?

[redacted]

A. Not that I saw sir. No.

Nemeth

Q. Not that you saw?

Schwab

A. That's all he can respond to, sergeant.

Nemeth

Q. Okay.

[redacted]
A. That's--I didn't see it. No, sir. I didn't see it.

Nemeth
Q. Okay. All right. Do you know Deputy Romero?

[redacted]
A. Yes, sir.

Nemeth
Q. Caesar Romero. The person who was indicated on your schematic with the "R" in a circle?

[redacted]
A. Yes, sir.

Nemeth
Q. How would you describe your relationship with him?

[redacted]
A. I worked a lot of trades up on 9000 for a small period of time and he was one of the regulars on 9000 on early mornings. So, I was working up there with him a couple of times.

Nemeth
Q. He's a--I didn't pick this up, but I'm--

[redacted]
A. I'm sorry.

Nemeth
Q. --I don't think the transcriber will pick up the word you said, I used to work a lot of what?

[redacted]
A. Trades. In other words I would trade with another deputy on 9000 earlies. We would trade shifts. He would work for me. (Inaudible)

Nemeth
Q. Okay. Shift swaps or whatever, right?

[redacted]
A. Yes, sir. Shift swaps.

Nemeth
Q. Okay. So that's how you knew Romero? Would you also describe him as a casual work acquaintance or something more than that?

[redacted]
A. Casual, sir. That would be it.

Nemeth
Q. Okay. Did you and Deputy Romero every have any harsh words or is there anything that ever occurred between you and he that would make him or cause him, perhaps to make an untrue statement involving, regarding you?

[redacted]
A. No, sir.

Schwab
A. And that's the statement that we have at this time, of course, we've not seen your investigative file or seen Deputy Romero's statement. If you're suggesting there's something he has stated that is inconsistent with this deputy's, please show us his statement now, and we'll be happy to address it.

Nemeth
Q. Okay. Well, I can't show you the statement now, because there's regulations and procedures which prohibit me from doing that. But I can tell you that we have interviewed other witnesses in this case. As you can well imagine. And I'm saying, substantial other witnesses approximately--

Schwab
How many?

Nemeth
--six, who have seen, or who say they saw you squeeze this inmate's testicles upon your initial arrival to the module. Did that happen?

[redacted]
A. No, sir.

Schwab
A. Again, sergeant, please give this deputy an opportunity to respond fully to those statements at this time. We are requesting to see all those statements that you are asserting are inconsistent with this deputy's statements.

Nemeth
Q. Okay. As I've told you, a minute ago. The procedure is you would be allowed to see them at a later point, should that necessity arise, but at this point, I can not provide them to you. All I can do is represent to you what's being said. Okay? And I'm trying give you, this is your opportunity, [redacted], to explain to the executives who will be looking at this event, your side of the story. Okay. And I want to make sure you understand what people are saying they saw you do.

Schwab
A. Okay. We're only--okay, sergeant that's a misrepresentation. We can only fully understand what other people have said Deputy [redacted] that you represented did by looking at their statements. Even if they're just summaries at this point. That is the only way we can fully address. And it's a misrepresentation of this deputy or any other deputy if he is able to fully explain the other statements without having seen them. Or to do anything other than tell you what he did during the incident. You are refusing to provide us that opportunity. Is that correct, sir?

Nemeth
Q. That is correct. Deputy [redacted]

[redacted]
A. Yes, sir.

Nemeth
Q. Okay. The form you signed before we started this interview today, it has a clause in there and it explains to you, reminds you of your duty under the manual, to provide us full, complete and truthful statements. Now, if it's later determined that you did not provide us full, complete and truthful statements that is, itself, another violation which is punishable by additional discipline up to and including your discharge from the Department. Do you understand that?

[redacted]
A. Yes, sir.

Nemeth
Q. Okay. And what I'm trying to present to you is, is there anything you did that could have looked like you were grabbing the inmate's testicles when you came in. Is there some action or body movement that you did that could make it look as though you were, were you ever at a point between the inmate's legs?

[redacted]
A. No, sir.

Nemeth
Q. Did you ever reach your arm or anything over towards the inmate's groin area?

[redacted]
A. No, sir. I did not.

Nemeth
Q. Okay. Did you ever kick the inmate, any place?

[redacted]
A. No, sir. I did not.

Nemeth
Q. Not at all?

[redacted]
A. None.

Nemeth
Q. Okay. Okay. Sergeant Gjendem?

Gjendem
Q. Yes. When Sloan, when Sloan came over there to join you, over at the fight there on the floor, you said you saw Romero standing at the booth door after it was all over, correct?

[redacted]
A. Yes, sir.

Gjendem
Q. When Sloan first came over there did you ever hear a conversation between Sloan and Romero?

[redacted]
A. No, sir.

Gjendem
Q. You never heard anything. Them talking to each other or, "Hey, watch the door." Or, "I'm going to go over there," or anything like that?

[redacted]
A. No, sir.

Gjendem
Q. Do you know how the change was made? How the swap was made?

[redacted]
A. No, sir.

Gjendem
Q. How many punches did you throw at [redacted]? Twenty?

[redacted]
A. No, sir.

Gjendem
Q. Ten?

Schwab
A. Wait until he guesses the best answers to his question.

[redacted]
A. No, sir.

Gjendem
Q. Five?

[redacted]
A. Somewhere around five, sir.

Gjendem
Q. It could have been more than five?

[redacted]
A. I don't know, sir. You're not--you're more or less telling me what I've, what I've, what I've thrown. That's--

Gjendem
Q. No I'm not. I'm asking you. How many do you think you thrown, you threw at the inmate?

Schwab
A. Let him answer that. Then let him answer that, rather than you guessing.

[redacted]
A. Probably no more than six to seven punches, sir.

Gjendem
Q. Okay. Six to seven?

[redacted]
A. Yes, sir.

Gjendem
Q. Did all six or seven of those strike the inmate except for that one initial punch?

[redacted]
A. I don't remember, sir.

Gjendem
Q. You don't have any idea how many of your punches struck the inmate?

[redacted]
A. He was moving so hard, so fast, and so wild that some of them missed and I hit with some of them. And I can't tell you how many of them connected and how many of them did not.

Gjendem
Q. At least one?

[redacted]
A. At least one, sir.

Gjendem
Q. You said, you didn't kick [redacted], did you see anybody kick [redacted]?

[redacted]
A. No, sir. I did not.

Gjendem
Q. When was the blood cleaned up inside the module?

[redacted]
A. I don't know that, sir.

Gjendem
Q. Had you already left the module when it was cleaned up?

[redacted]
A. I don't know. We left the module. I don't know when the blood was cleaned up, sir. I don't know.

Gjendem
Q. Did you leave before the inmate or after the inmate left?

[redacted]
A. I believe that we left when the inmate was being taken down on the gurney, sir.

Gjendem
Q. You left all at the same time? Do you know who you left with and where you went directly?

[redacted]
A. We were looking for the watch commander, sir. To report force.

Gjendem
Q. And that was at the direction of?

[redacted]
A. It would have been Sergeant Mosley.

Gjendem
Q. Okay. And who went?

[redacted]
A. Myself, Deputy [redacted] Deputy Sloan and Deputy Kluth.

Gjendem
Q. Okay. And where did you go?

[redacted]
A. To find the watch commander. He was in the gym at the time, working out.

Gjendem
Q. Did you later go somewhere else? Or--

Schwab
A. What do you mean?

Gjendem
Q. --to the watch commander's office and meet the watch commander, again?

[redacted]
A. No. After that I remember we were in the clinic because Sergeant Duncan was there with the video camera, that's the acting watch commander, Sergeant Duncan.

Gjendem
Q. Uh-huh.

[redacted]
A. He was there with the video camera, video taping the inmate.

Gjendem
Q. Okay. When you were in the gym did you run your part of the force by, at that gym area?

[redacted]
A. Sergeant Duncan asked us real quickly for all four of us to state what had happened.

Gjendem
Q. Okay. And were you present when the other three deputies gave their account as to what happened inside the module?

[redacted]
A. Yes, sir.

Gjendem
Q. And they were present when you gave your account to the watch commander?

[redacted]
A. Yes, sir.

Nemeth
Q. Deputy [redacted] when you made the force notification you were standing with, this is to the acting watch commander, Sergeant Duncan?

[redacted]
A. Yes, sir.

Nemeth
Q. Were you standing together with [redacted] Kluth and Sloan? The four of you?

[redacted]
A. Yes, sir.

Nemeth
Q. Okay. And did you hear anybody make any notification to Sergeant Duncan that Deputy Kammer, Deputy Broad, Deputy Barrett and Deputy Romero were present during the use of force?

[redacted]
A. I don't remember, sir.

Nemeth
Q. You don't remember hearing that, is that what you're saying?

[redacted]
A. I don't remember anybody--I don't remember that, sir. No.

Nemeth
Q. Okay. And do you remember things of that conversation, that force notification?

[redacted]
A. Yes, sir.

Nemeth
Q. 'Cause we've been talking about it now for nearly two hours, right?

[redacted]
A. Yes, sir.

Schwab
A. What's your point, sergeant?

Nemeth
Q. Okay. So, you remember, you remember other portions of that conversation pretty well, don't you?

Schwab
A. Well, what's your point, sergeant?

Nemeth
Q. Well, I'm asking him a question.

Schwab
A. What do you mean other portions. What portions?

Nemeth
Q. You remember what was said in that conver--

Schwab
A. I don't understand. I don't understand your question.

Nemeth
Q. Okay. Well, it doesn't matter if you don't understand it, he has to understand it.

Schwab
A. Do you understand the question, Deputy [redacted]

[redacted]

A. No, sir.

Nemeth

Q. Okay. During that conversation we've been talking about, you remember other things that were said back and forth between Deputy Sloan and yourself and Sergeant Duncan. Is that true?

Schwab

A. What other things? What are you talking about?

Nemeth

Q. Well, you remember that Sloan and yourself told Sergeant Duncan what was said or what occurred in the force incident. Correct?

[redacted]

A. I remember telling him my part. Yes, sir.

Nemeth

Q. Okay. So you remember that part of it, right?

[redacted]

A. Yes, sir.

Nemeth

Q. Okay. You don't remember anybody talking about Kammer, Broad, Romero, or Barrett. Is that true?

[redacted]

A. This is true, sir.

Nemeth

Q. Okay. But you remember the rest of that conversation, right?

[redacted]

A. My conversation with him. Yes, sir.

Nemeth

Q. Okay. All right. When's the last time you talked to Deputy Sloan?

[redacted]

A. The last time the bomb truck broke and they brought it in at the [redacted] shop to get fixed.

Nemeth

Q. Okay. Well, when would that be?

[redacted]

A. I don't remember, sir. It was the last time the bomb truck went down.

Nemeth

Q. Well, can you put a number of days or weeks on that or a date?

[redacted]

A. Probably, I think the bomb truck the last time it went down, is probably a couple of months ago. [redacted].

Nemeth

Q. Okay. So approximately, two months ago is the last time you spoke to Deputy Sloan, is that what you're saying?

Schwab

A. Okay. This is exclusive of any attorney-client privilege.

Nemeth

Q. Right.

Schwab

A. Sergeant.

Nemeth

Q. Right. Talking about you personally talking to Deputy Sloan, when was the last time that happened?

[redacted]

A. Couple of months ago. Somewhere in there.

Nemeth

Q. That's the very last time?

[redacted]
A. That I remember. Yes, sir.

Nemeth
Q. You don't remember any others? Is it possible that some others occurred you forgot?

Schwab
A. You know,--

Nemeth
Q. Is that what you're saying?

Schwab
A. Sergeant you're arguing with him.

Nemeth
Q. No I am not. I'm asking him a question.

Schwab
A. He gave you his--Yes, you are. And we are going to take a break until you can just ask a fair question.

Nemeth
Q. Do you understand the question, Deputy [redacted]

Schwab
A. It's your snide tone of voice. It is your argumentative tone of voice. He is entitled to respond what his best recollection is. You want to argue with his best recollection. You're not entitled to do that.

Nemeth
Q. Thank you, Ms. Schwab.

Schwab
A. You're simply here to take down his statements.

Nemeth
Q. Thank you, Ms. Schwab. Your concerns are noted on the tape. Deputy [redacted] do you understand the question?

Schwab
A. I'm not going to permit you to argue with Deputy [redacted] or any other deputy I am representing, sergeant.

Nemeth
Q. I'm certainly not arguing with him.

Schwab
A. Please do not interrupt me.

Nemeth
Q. Deputy [redacted] do you understand the question?

Schwab
A. I don't understand the question, sergeant. What is the question?

Nemeth
Q. Deputy [redacted] do you understand the question?

[redacted]
A. No, sir.

Nemeth
Q. Okay. When is the last time you spoke to Deputy Sloan?

[redacted]
A. That I can really remember, the last time he was in the Eastern Avenue shops.

Nemeth
Q. The first part of that was that you can really remember, is that what you just said?

[redacted]
A. That I really remember. Yes, sir. It was when he came in the Eastern Avenue shops.

Nemeth
Q. And that was two months ago?

[redacted]
A. It was a while back, sir. It was not last week. It was a while back. I can't really remember when it was. It was the last time more or less the bomb truck went down.

Nemeth
Q. Okay. Is there some incident where you spoke to Deputy Sloan, aside from that point, that you don't remember now, is that what you're saying? Is it a possibility that some other time you talked to him more recently, and you have forgotten about it?

Schwab
A. Anything is possible, sergeant.

Nemeth
Q. Well, I'm asking Deputy [redacted]

[redacted]
A. Is anything, anything is possible, sir. I don't really--that's the last time I remember talking to Deputy Sloan.

Nemeth
Q. That's the last time you remember talking to him, right? How about Deputy Kluth?

[redacted]
A. He was in, yesterday. They picked up their [redacted] car for whatever unit he's assigned to.

Nemeth
Q. Did you talk to him about the case at that time?

[redacted]
A. No, sir.

Nemeth
Q. Sergeant Gjendem.

Gjendem
Q. Okay. Did you tell Sergeant Duncan that you were on the, what force you had used by, the force, the force you used upon [redacted]; did you tell Sergeant Duncan what you saw [redacted] do?

[redacted]
A. No, sir.

Gjendem
Q. Can you tell me why you didn't tell Sergeant Duncan what you saw [redacted] do?

[redacted]
A. Sergeant Duncan was asking us what each of us had done during the incident.

Gjendem
Q. Okay. Are you required by the manual to tell Sergeant Duncan what you had seen [redacted] do?

[redacted]
A. I don't know, sir.

Nemeth
Q. Oh, okay. Now, you say that you saw Deputy Kluth being held in a choke hold by inmate [redacted] and inmate [redacted] had him in that position utilizing [redacted] right arm. Is that right?

[redacted]
A. Yes, sir.

Nemeth
Q. Are you certain of that?

[redacted]
A. Yes, sir.

Nemeth
Q. Okay. 'Cause another person was here and told us that it was the inmate's left arm. So who's wrong? Somebody is wrong?

Schwab
A. He can only state what his best recollection is, sergeant. He can't state who is wrong and who is not.

Nemeth
Q. I mean, I'm trying to get at--or you like a hundred percent sure of that or could you be a little off or?

[redacted]
A. I'm sure it was his right arm.

Nemeth
Q. Okay. So, somebody else said it was some other arm but they're the ones that might have it wrong. Is that correct?

[redacted]
A. I don't know that, sir. I only know what I saw.

Nemeth
Q. Okay. Right arm.

[redacted]
A. Right arm, sir.

Nemeth
Q. All right. And you didn't see anybody do any kind of kicking or even any kind of motion that could have look like a kicking motion, is that true?

[redacted]
A. That's correct, sir.

Nemeth
Q. Okay. And you have no idea how this inmate sustained the injury. Is that right?

[redacted]
A. This is correct, sir.

Nemeth
Q. To the testicle?

[redacted]
A. Yes, sir.

Nemeth
Q. All right. Sergeant Gjendem might have a couple of questions.

Gjendem
Q. Did you see any other inmates around this area?

[redacted]
A. No, sir. I did not.

Gjendem
Q. No inmates? Did you see anybody inside the Baker row shower?

[redacted]
A. No, sir.

Gjendem
Q. [redacted] was the only inmate that you saw out here and outside the actual cells, themselves?

[redacted]
A. Yes, sir.

Gjendem
Q. Was [redacted] saying anything to you or any other deputy that you know of during the struggle?

[redacted]
A. No, sir.

Gjendem
Q. Was he giving out any cries or moans or anything like that?

[redacted]
A. No sir. No cries or moans.

Gjendem
Q. He was quiet?

[redacted]
A. No, sir. He was making guttural sounds. He was making fighting sounds. He was making sounds like he was trying to get up, you know, trying to not let me hold his arm. Making fighting sounds, I would call them.

Gjendem
Q. What's a fighting sound?

[redacted]
A. Like something to charge yourself up. Like a, like, Graaah! Something to that effect.

Gjendem
Q. Did you hear any of the deputies use the word, "motherfucker?"

[redacted]
A. No, sir.

Gjendem
Q. Did you hear any inmates on the rows yelling anything?

[redacted]
A. No, sir.

Gjendem
Q. That's all I got Sergeant Nemeth.

Nemeth
Q. Okay. That's all the questions we have for you Deputy [redacted] At this point we will offer you an opportunity to add something. If there's some other aspect of this incident that we failed to ask you a question about or something you feel is important or relevant, now is your time to make your statement. Is there anything you want to add?

[redacted]
A. No, sir.

Nemeth
Q. Okay.

Schwab
A. We'll reserve comment until we have an opportunity to review the investigative file.

Nemeth
Q. Okay. Anything else Sergeant Gjendem?

Gjendem
Q. That's all.

Nemeth
Q. All right. We'll end the interview then. The time is 1140 hours.

END OF INTERVIEW

ADMI ISTRATIVE RIGHTS/SWORN SUB CTS

I am **Sergeant John Nemeth** and this is **Sergeant Ernie Gjendem** of the Internal Affairs Bureau, which is commanded by Captain Norman L. Smith.

You are about to be questioned as part of an official Los Angeles County Sheriff's Department administrative investigation.

Do you have a Policy and Ethics Chapter of the Manual of Policy and Procedures? Yes [X] No [ ]
Are you familiar with its contents? Yes [X] No [ ]

You are specifically reminded that Policy and Ethics Section 3-01/040.70 requires that you make truthful statements and Section 3-01/040.75 requires that you make full and complete statements.

This investigation concerns: (Explain allegations /basic reason for investigation.) **Alleged Use of Unreasonable Force; and Reporting the Use of Force**

If this were a criminal investigation any statements you made could be used against you in a court of law. Since this is an administrative investigation, neither your statements nor any information or evidence which is gained by such statements can be used against you in any subsequent criminal proceeding. However, these statements may be used against you in subsequent administrative actions.

You are being ordered to answer questions specifically related to the performance of your official duties and/or your conduct as related to your employment with the Department.

You have the right to remain silent, and you have the right to the presence and assistance of counsel. You are hereby notified that although you have the right to remain silent, failure to answer questions directly related to this administrative investigation may result in your discharge or other punitive action.

You have the right to have a representative of your choice, who is not involved in this investigation, present with you during your interviews. You may tape record this interview if you wish. **You are being ordered not to discuss the facts of this case or any of the issues discussed during your interview with anyone other than your designated representative or attorney in this matter.**

Initials [redacted]

The above admonition has been explained to me and I understand its contents.

DATE: **12-13-95** FILE NO. **IAB 008383**

SUBJECT: [redacted] (Print) [redacted]

(Signature) (Print)

INVESTIGATOR: John Nemeth (signature) **John Nemeth**

LOS ANGELES COUNTY SHERIFF'S DEPARTMENT

SUBJECT STATEMENTS
(LAST NAMES M - Z)

INTERNAL AFFAIRS BUREAU
INVESTIGATIVE REPORT

I.A.B. 0008383
(Book 3 of 8)

CONFIDENTIAL

SGT. VAN MOSLEY
I.A.B. INTERVIEW 1-3-96

SUBJECT INTERVIEW

CASE NUMBER IAB 008383

VAN MOSLEY

Nemeth
Q. Today's date is January 3rd, 1996. Time is 1140 hours. I'm Sergeant John Nemeth accompanied by Sergeant Ernie Gjendem, we're at Temple Sheriff's station in the captain's conference room, interviewing Sergeant Van Mosley, who is a subject in IAB case number 008383. Sergeant Mosley, prior to going on tape, I provided you with a copy of your rights as a sworn subject in this investigation. And I see you indicated yes to the questions, signed your name and initials to the form. Do you understand your rights as a subject, sir?

Mosley
A. Yes.

Nemeth
Q. Okay. And you understand you have the right to a representative, today. Is that true?

Mosley
A. Yes.

Nemeth
Q. Okay. And you, you're electing not to have a representative at this time?

Mosley
A. Yes.

Nemeth
Q. Okay. You understand you have the right to tape record this interview?

Mosley
A. Yes.

Nemeth
Q. And you're electing not to tape record it?

Mosley
A. Yes.

Nemeth

Nemeth
Q. Okay. Tapes can be provided, in the investigation should discipline awarded, you'll have a right to get copies of our tapes as well.

Mosley
A. Yes.

Nemeth
Q. So you know that's not a problem. Okay. We previously interviewed you here, in this case, regarding this case, approximately two months ago, or thereabouts on October 31st, '95. And we provided you with that transcript as well as a transcript from an earlier interview where you were spoke-, where you were interviewed by sergeants from the Internal Criminals Investigation Bureau (ICIB), back on--that interview with them occurred on December 5th. I'm sorry. January 5th, '95. We've provided you with transcripts of both of those interviews, which I see you have in front of you. Have, have you had an opportunity to review those?

Mosley
A. No. Not really. I just got back tonight and it was in my box and I haven't really have a chance to go over those.

Nemeth
Q. Okay. All right. And as to the interview that we conducted back on October 31st, do you have a memory of that interview and that it occurred basically three months ago?

Mosley
A. Yeah. Yes.

Nemeth
Q. Okay. And as I told you prior to going on tape, my intentions is not to re-ask every question we spoke in that interview, because we've already ask and answered 'em. My--what I'm gonna do, is ask you an overall question and pertaining to the interview that we had. Not the ICIB interview,--

Mosley
A. Okay.

Nemeth
Q. --but the one that we had. Is there anything, since that's fresh in your mind, is there anything that in the last three months that's gone by that's come to your attention or that has come to your memory or that you've recalled that you didn't discuss with us in that interview. That has bearing on, on this case and this investigation?

Mosley
A. No. I don't believe there is.

Nemeth
Q. And is everything that you told us in that prior interview, your best recollection of the events when we asked you the, the questions regarding reporting of and regarding the circumstances surrounding this force, did you answer our questions to the best of your ability at that time?

Mosley
A. To the best of my ability and my recollection, yes.

Nemeth
Q. Okay. One thing that I did want to ask you then, that came up, since that interview is, I have a copy of a, of a document which across the top says, Deputy's Use of Force Report, Force Review Package. And then it's--it has a bunch of lines on it and has primary deputy, witness deputy, date, page number, file number, inmate's name, incident narrative, and then there's a place for a deputy to affix their last name, first name, middle initial and employee number at the bottom. I'll show you this form and see if you recognize that form?

Mosley
A. Yes. I have seen it before.

Nemeth
Q. Okay. And what do you know that form to be?

Mosley
A. This is the form that I believe as I recall--if I recall correctly, the deputies would fill out to--if there was no--the deputies were filling these out to report what force they used, what--if there were a witness. I see, there's--it's primary witness on here and if they were a witness, they wrote out what they saw on these; and if they were a primary deputy, they wrote out what they did, if they used force, they put their involvement in the incident on this form.

Nemeth
Q. Okay. And is it your understanding that these forms were to be used in those cases where no other written documentation of the event was gonna occur?

Mosley
A. I believe that was it. And I believe that we had--I think that was the way it went. Kinda, and you're talking about 49, like we talked? Yeah.

Nemeth
Q. All right.

Mosley
A. I believe that was it.

Nemeth
Q. Okay. So in other words, this, this form is only completed in those cases where a crime report or a SHAD 49, that you refer to, was not gonna be completed. Is that correct?

Mosley
A. Like I said, I'm trying to think if this was--like I said this was kind of a flux in the policy as to what, in significant force and as far as using 49's there was--people were going back and forth at the time, not really knowing exactly if there's--'cause I can remember us, us doing these when there was a, a SHAD 49 being written and some of the deputies would do them then other sergeants would do other things, the policy was not clear at that particular time, that--

Nemeth
Q. Okay.

Mosley
A. --time. So I don't really know exactly what--'cause I can remember discovering one time when I had a, a, a force incident to do. And I don't know if it was before this incident or after this incident, assume it was after, where we were--somebody said, well, if you have a 49, you don't, you don't do these things. You did the 49 then you sat the report out or do that and I'm not really sure exactly how that worked or when that came into being, but like I said I remembered there was a lot of confusion about the policy at the time.

Nemeth
Q. Okay. Do you remember in regards to the case we're dealing with here, the force incident involving Deputies Kluth, et. al. Do you know if it was one of these documents, this force review package, deputy's use of force report, was that, one of these completed in that, in this case?

Mosley
A. I'm not sure whether it was this particular form. As I recall, there was like--

Gjendem
Q. Well let me see.

Nemeth
Q. You're referring to the prior statements we've included with that the force review package that you prepared in regards to this. Is there any mention of this report in, in your force review package, there? Regarding this case?

Mosley
A. Supplemental reports written by assistant deputies refer to SHAD, there was a--there was a 49 done on this, that I see.

Nemeth
Q. Right. But was there one of these forms done, this report?

Mosley
A. I'm not--I don't recall whether they were those forms or not, I don't know.

Gjendem
Q. Would you refer--

Mosley
A. --Have, that particular form?

Gjendem
Q. Yes.

Mosley
A. I don't know whether I'd refer to that or not. And I see, like I said, on, on that--I imagine this was all the paperwork that I received, was the SHAD 49 plus the, plus the supplemental reports and obvious--I don't know if one of these were done or not but I--all that I recall is that we had--think you showed it to me last time, they had supp reports but they weren't the actual red tip supps, they were done a continuation page as was done sometimes.

Nemeth
Q. Right.

Mosley
A. And it was kind of a half fangled thing with--with paperwork. But that, the actual forms, these I don't--I don't recall. Probably was not--

Nemeth
Q. Okay.

Mosley
A. --submitted.

Nemeth
Q. All right.

Mosley
A. Like I said, I see where--

Nemeth
Q. And is it your understanding that, that this was required or was not required, to be submitted with a -- (Inaudible) thing? If a 49 is being written.

Mosley
A. I really don't remember.

Nemeth
Q. Okay.

Mosley
A. If that was required or not required at time or along with supp reports or we, we should have had some kind of face page. And I don't know whether this was being used as the face page. I--

Nemeth
Q. You mean as far as the force package goes, (inaudible) names?

Mosley
A. Right. Right.

Nemeth
Q. You have those. You had those.

Mosley
A. We had those.

Nemeth
Q. Yeah. Not this?

Mosley
A. Not that.

Nemeth
Q. This, this is a narrative type form. It looks like to me with a bunch of lines on it to--

Mosley
A. Right.

Nemeth
Q. --says here like a memo type format.

Mosley
A. Right. So, we did have the, the, the departmental face pages.

Nemeth
Q. Right.

Mosley
A. Okay.

Nemeth
Q. Which lists the deputies' names and employee numbers and that type thing. Okay. Do you remember, did anybody start to complete one of these forms, this force review memorandum type form that I've been referring to here? Did anybody start to fill one of these out and did you tell 'em not to? Or that it was not necessary in this case, do you remember anything like that?

Mosley
A. I don't remember. Whether I did or I did not. Don't know.

Nemeth
Q. Okay.

Gjendem
Q. I got a couple of questions for you?

Mosley
A. Sure.

Gjendem
Q. There's a place on here for a file number, was there a special file number that was issued for incidents at Central Jail, that you know of that were not documented on a SHAR 49?

Mosley
A. Gosh. I don't remember. I really don't know if there was or wasn't. I don't believe there was. I don't think we had a, a unit file number. I think it was just regular file, departmental file number that we drew for the unit. I don't think there was a special thing. I don't remember any.

Gjendem
Q. Uh-huh.

Nemeth
Q. Were, were you ever a watch commander at Central Jail, fill in as a watch commander?

Mosley
A. No.

Nemeth
Q. Never?

Mosley
A. No.

Nemeth
Q. Okay. If a deputy witnessed force at Central Jail, a significant use of force?

Mosley
A. Okay.

Nemeth
Q. The manual requires him to report to the supervisor, correct?

Mosley
A. Uh-huh.

Nemeth
Q. Is that particular deputy required by any Central Jail policy that you know of, unit policy, required to document that witnessing a force on any written document?

Mosley
A. If I recall, a policy at the time, the way it was interpreted then, it said, that the deputy was required to report his witnessing of force to his supervisors, or sergeant, his floor supervisor and I don't believe it had any requirement of writing what he saw. I don't believe there was a requirement. As I recall it at, at the time. That's what I remember.

Nemeth
Q. Uh-huh.

Mosley
A. That whether or not, you know, and I, and I don't know that this was something that was instituted by the unit to, to get a witness statement or -- Says Men's Central Jail on there? That wasn't a departmental form, am I correct? I'm--

Nemeth
Q. I have never seen this form until--and it was yesterday when my partner showed it to me.

Mosley
A. Okay.

Nemeth
Q. You know?

Mosley
A. So, but like I said, as I recall a policy at the time, I believe I was--had told a couple of deputies, that it was required that they report the force, if you are a witness.

Nemeth
Q. Verbally report it?

Mosley
A. Verbally report it. And that's as far as it went.

Nemeth
Q. Okay.

Mosley
A. As far as requiring a written statement from them, I'm not sure that, that the department policy required them to do that at the time.

Nemeth
Q. Well, the department policy doesn't require that, no.

Mosley
A. Right.

Nemeth
Q. But did Central Jail have a policy?

Mosley
A. Did they have--

Nemeth
Q. Was it something they handled on incident by incident basis, in other words, you made it--if somebody would report to you that they witnessed force and depending on the circumstances, you might order them to complete one of these forms. To document what they saw in, in some instances and not in some other instances?

Mosley
A. I'm trying to think exactly what, I don't remember exactly what the policy was. Whether or not they required that--like I--they were coming up with different things at different times. I remember it was--like I said before, it was changing. You know, every, every week they come up with something. Now we're gonna do this. Now we're gonna do that. And things were getting added as people saw a need. I think, like we were, as we were--this policy was evolving. They were saying now I think we do need to, you know, for everybody just to write down a witness statement. I think, as I recall, I, I--sorry guys, I just don't remember what exactly how the policy went.

Nemeth
Q. Right.

Mosley
A. But I remember there was in my mind, there was confusion. Nothing was really clear on what exactly we should do. It at some--and I remember recalling at some time, they said, well on pm's they make us do this. On days they don't do--we don't do this. There was a shift to shift discrepancy sometimes of--

Nemeth
Q. How big was this (inaudible)

Mosley
A. (inaudible) our paperwork was submitted, who wrote what. You know, sometimes watch commanders were different. So it was--that was the way things were going at the time.

Nemeth
Q. Okay. All right.

Mosley
A. It was not a clear cut policy. Like when I'm here, I know exactly what I have to do.

Nemeth
Q. Okay. Here at Temple Station?

Mosley
A. Here at Temple Station.

Nemeth
Q. Right.

Mosley
A. Here I know exactly what I have to do in a force incident and it was not clear exactly what we were suppose to do at the time. And what paperwork was to be submitted and what we were suppose to gather and who was--

Nemeth
Q. Okay.

Mosley
A. So, it was not clear to me at the time.

Nemeth
Q. What I wanted to ask you was, did you ultimately submit your force package to somebody?

Mosley
A. Yes.

Nemeth
Q. And who was that?

Mosley
A. That was the watch commander.

Nemeth
Q. And that was who that night?

Mosley
A. Sergeant Duncan.

Nemeth
Q. Did he have any questions or ask you to make any modifications or changes to your package?

Mosley
A. No. He did not.

Nemeth
Q. Okay. The other thing I wanted to ask you is, and this, this goes back to your prior interview, do you remember Duncan, Sergeant Duncan the watch commander that night asking--I have to check something. All right. We're back on the record after a battery change for the tape recorder and hopefully we'll have better luck now with, with our recording. Sorry about the difficulty for our transcribers, there. Okay. The time is now, it's 2400 hours. And continue with the interview of Sergeant Mosley. And the question I was about to ask you is, when, back dealing with the night of the incident, which was October 27, 1994. Do you remember Sergeant Duncan asking you to have someone go back to the Module 4400 and look for witnesses to the event? To the force event?

Mosley
A. No, I don't.

Nemeth
Q. Okay. I think in the prior interview that, he did do it.

Mosley
A. Did he?

Nemeth
Q. But a--I'm looking. I know--

Mosley
A. That I remember that he did. I don't--

Nemeth
Q. That's what I'm looking for. I know that there's some other--you don't remember assigning somebody, one of the deputies involved to go look for witnesses at the scene?

Mosley
A. All I remember is just being involved doing the, the preliminary interviews at, in the module. I remember going downstairs to the, to the clinic, interviewing the subject, [redacted] on videotape, rolling him over several times on his supposedly his ruptured testicles and not having him say a word about it. And during that interview, I remember that interview very well. I don't remember assigning somebody to go up to look for witnesses. I really don't remember that. But if I said so before--

Nemeth
Q. Okay.

Mosley
A. Did I say that I did before?

Nemeth
Q. Well, I don't know. That's what I'm looking for in your transcript.

Mosley
A. I hope you can find it. I may have. I don't--No. I don't remember after that interview, I don't remember what all happened. I can remember the deputies kind of gathering and writing their--

Nemeth
Q. Right.

Mosley
A. --their paper and I was--I don't even remember writing this memo here, where I did it. That would be nice if I could.

Nemeth
Q. Okay. Did any deputies aside from the four deputies who submitted paperwork to you or submitted paperwork in this case, Kluth, Sloan, [redacted] and [redacted], did any other deputies verbally report that they witnessed or had been involved in the incident to you?

Mosley
A. None that I remember.

Nemeth
Q. Okay. And had someone had done that, would that have been mentioned in your--

Mosley
A. I would imagine--

Nemeth
Q. --memorandum?

Mosley
A. --it was. But as the policy stated at the time, I would think that I would of written something about a witness deputy in some where. You know, telling me something, giving me a little back up as to what he saw--

Nemeth
Q. Uh-huh.

Van Mosley
A. --and to back the deputies' stories. I, I, I would hope I would have at the time, because that was something that I thought I was fairly up on it, was doing this to, to at least substantiate the stories that I was being given and whether they were true or false.

Nemeth
Q. And under these circumstances, what's--had another deputy made an oral report to you, would you have directed him to write some--whether a sup or one of these force review packages. Would you have told somebody to write something about it?

Mosley
A. I believe that I would have.

Nemeth
Q. Uh-huh.

Mosley
A. As a witness, I, I believe I would have. I, I think I would have had him write something.

Nemeth
Q. Okay. Well, I can tell you that in, in, in the forms we received, there are none--no reports from anybody else. So does that refresh your recollection that nobody submitted one?

Mosley
A. I, I, I don't think--I think the only paper, as I, if I recall correctly, the only paperwork I got was from the four guys who said they were involved. I think I had--said there were two guys that showed up, just about, that came down on the floor. When I--about when I got to the module they saw it was Code 4 and turned around and left and I told you before that I don't remember who those guys

were. I wish I did now, but they came on the--through the sally port, along with a--I think the senior, Jackson--

Nemeth
Q. Uh-huh.

Mosley
A. --came. And those were the only folks that I saw there.

Nemeth
Q. Okay.

Mosley
A. At the time that could have seen anything as far as I was concerned.

Nemeth
Q. Uh-huh. Did any of the involved deputies tell you that there was a deputy by the name of Romero who was standing in the booth at the time of the force incident and had relieved Deputy Sloan from the booth. Did anybody tell you that?

Mosley
A. I don't recall that. I don't recall having--I don't know. I really don't--I don't recall, I mean, anybody telling me that. No.

Nemeth
Q. Okay.

Mosley
A. Was there another deputy there, that--

Nemeth
Q. Well, yeah. I mean, according to his inter--and other deputies' interviews, they say, yes.

Mosley
A. There was another guy there?

Nemeth
Q. There was another person there.

Mosley
A. Witnessed it?

Nemeth
Q. But, a--

Mosley
A. That's interesting.

Nemeth
Q. But, that's why I'm asking you did anybody tell you that and you're saying you, you don't remember anybody telling you that.

Mosley
A. I don't remember whether they--I don't--I--'cause remember standing there in the--[redacted]' laying on the floor, asking everybody, just kind of keeping everybody there, what they saw, what you'd see, what'd you do. Taking them aside and just getting the preliminary sketch from them about what happen in the incident. I don't recall seeing any other deputies there that--'cause I always say, I just walk up and I'd say, okay, who is, who's involved, who saw this.

Nemeth
Q. Uh-huh.

Mosley
A. That's, that was my limited experience there, I'd just kind of corral everybody and say, whoever was there at the time and I can remember doing that. 'Cause we were standing right there in the sally port and I was asking, you know, getting the statements as I, as I--nobody left to, to go anywhere.

Nemeth
Q. Okay.

Gjendem
Q. A moment ago, you said, that if somebody told you, up there in the module, that they had witnessed some force, you'd of had them document it somewhere?

Mosley
A. I, I think I would have, yes. I believe I would have.

Gjendem
Q. How would you have them document it?

Mosley
A. Probably on one of these.

Gjendem
Q. On one of these forms?

Mosley
A. I would imagine.

Nemeth
Q. And he would have been filling this out as a witnessing deputy?

Mosley
A. As a witnessing deputy, yeah. And I don't--

Nemeth
Q. And where would this go then?

Mosley
A. It would go in with the force packages. I recall that they did. I think I've--had a, did a couple of others after this that where we had, I can remember one in particular where a guy really got violent in the hall with deputies we had, like three or four involved and--

Nemeth
Q. Uh-huh.

Mosley
A. --there was like, two or three others that had witnessed it. And they all, I remember I had 'em all fill out one of these.

Nemeth
Q. They didn't use any force, they only witnessed some force?

Mosley
A. They just witnessed it.

Nemeth
Q. Okay.

Mosley
A. And--but like I said, at the time, all that was just kind of going--and I don't know how long they had these, like I said, I was brand new there, and I hadn't done all that many and this was the first kind of major thing that I believe that I've had here. And I don't know how long these were in use or when, you know, I don't know the history of any of this. So--

Nemeth
Q. Uh-huh.

Mosley
A. Did you find it?

Nemeth
Q. No. I didn't. Think I'm getting to here. Go ahead with whatever you got.

Gjendem
Q. Did you ever get a chance to look at Sergeant Duncan's memo?

Mosley
A. No.

Gjendem
Q. You never saw it before it was submitted to the captain?

Mosley
A. No. I did not.

Nemeth
Q. Did you ever talk to Sergeant Duncan about his memo or did he bring up anything to you about it?

Mosley
A. No. Not that I recall.

Nemeth
Q. Okay.

Mosley
A. I just--I wrote my memo. Submitted it. And that was frankly the last I heard of it. Until I found out, I came in one day and found out that these deputies had been [redacted].

Nemeth
Q. Uh-huh. When you were assigned to Central Jail, were you part of--did you have a--did they have a mentor program going there or anything?

Mosley
A. No.

Nemeth
Q. You weren't given a sergeant to--

Mosley
A. I was given a--

Nemeth
Q. A book?

Mosley
A. I don't remember what I--

Nemeth
Q. Okay.

Mosley
A. If I was given a book or not. I was fairly familiar with Central Jail because I've worked there on overtime before as a senior deputy. I was in and out of there all the time, so I was

fairly familiar with the facility and I don't remember getting any formal training or orientation. I imagine they gave me, Walt Bowman's pretty thorough about stuff like that.

Nemeth
Q. Uh-huh. Who's thorough?

Mosley
A. Walt Bowman was the training sergeant at the time. And he was pretty thorough about that and I imagine he--I was taken on a lot of vent tours. I was taken on--just familiarizing myself with the, with the facility but some of the procedures--we had drills quite regularly. Escape drills. Fire drills.

Nemeth
Q. Uh-huh.

Mosley
A. Things like that. But I don't recall having an actual, like I have here at Temple Station. A mentor.

Nemeth
Q. A mentor?

Mosley
A. I don't recall having anything like that.

Nemeth
Q. Did you receive any formal training on how to do a force package?

Mosley
A. No.

Nemeth
Q. All right.

Mosley
A. What was the question you asked that we're looking for here?

Nemeth
Q. Well, its do you remember Duncan or anybody or did you on your--

Mosley
A. Sending, sending someone to look--

Nemeth
Q. Yeah.

Mosley
A. --for witnesses?

Nemeth
Q. Or did you direct anybody to do that on your own? To look for--and by witnesses I mean--

Mosley
A. Like out--

Nemeth
Q. --other inmates--

Mosley
A. Right.

Nemeth
Q. --or other deputies or anything like that?

Mosley
A. No. I don't recall doing that at all.

Nemeth
Q. Okay.

Mosley
A. I, I think, thinking about the way I act on things. If I didn't see anybody at the time--

Nemeth
Q. Uh-huh.

Mosley
A. --and not thinking that anybody could see anybody down a row and I know during the ICIB interview, they said, if you go down the middle of the row you can see up front perfectly.

Nemeth
Q. Uh-huh.

Mosley
A. I didn't even think about doing that.

Nemeth
Q. Uh-huh.

Mosley
A. 'Cause I didn't see anybody at the time. And they told me there were, was one guy in the shower, and I don't remember seeing him. I don't remember seeing any guy in the laundry room either. So--

Nemeth
Q. Okay.

Mosley
A. Said, maybe tunnel vision, maybe--

Nemeth
Q. Okay. You had a lot of things going too, you had the--

Mosley
A. Well that's what I'm saying. I was--

Nemeth
Q. You had the injured, injured deputy.

Mosley
A. Yeah. We had him. I was worried about him. I'm seeing the blood, you know, thinking what do you got here and all that kind of stuff, so--

Nemeth
Q. Uh-huh.

Mosley
A. A little bit narrow in my, my observations, I think.

Nemeth
Q. Well, let me take a break on the tape. Conserve the tape. It's 0010 hours and--All right. Back on the record. Time is 0030 hours. Okay. When you were talking to the watch commander, Sergeant Duncan, do you recall him asking you to go up and look for inmate witnesses along with any deputy witnesses?

Mosley
A. I don't recall him asking me that. No. I don't. I don't remember if he did. He may have. He may not have. I don't remember the exact details of any of the--any of that sort of thing following the incident.

Nemeth
Q. If he would have, would you have sent somebody up there?

Mosley
A. Yes. I would have.

Nemeth
Q. And do you recall anybody telling you that they--do you recall going up there and finding any?

Mosley
A. No. I can remember asking the deputies that were there, when I got to the, the incident, that if, anybody had seen it. Did they have any--was there any witnesses. I can remember asking them that and they told me, no.

Nemeth
Q. Okay. I think what, what I'm asking you though is, did you go up and look for any inmate witnesses? Well, in your prior statement, we've kind of covered that. It does say you did not do that. In your prior statement, it says--

Mosley
A. I know but--Right.

Nemeth
Q. Your prior statement says, you came in, and you asked deputies, you know, what happened and--

Mosley
A. Right.

Nemeth
Q. The only deputies that told you anything were the four deputies who ultimately submitted reports.

Mosley
A. Right.

Nemeth
Q. You said there were two other deputies standing at the door who you didn't know who they are--

Mosley
A. Right.

Nemeth
Q. --and you don't remember now who they were?

Mosley
A. Right.

Nemeth
Q. That walked by you and you assumed they didn't see anything?

Mosley
A. Well they, they arrived at the door at the same--they came onto the floor the same time that I was converging on it--

Nemeth
Q. Right.

Mosley
A. We were both converging on the door. They got to the door slightly ahead of me, they said, Code 4, or something to that effect. And they were gone.

Nemeth
Q. So based on your observations and everything, you felt that they hadn't witnessed the use of force?

Mosley
A. I felt they had not witnessed anything. They look like they--

Nemeth
Q. Right.

Mosley
A. --had just come down from a floor, you know, on either somebody's report or they had heard about it or whatever it was.

Nemeth
Q. (inaudible)

Mosley
A. They were coming there to assist or do something, so.

Nemeth
Q. Okay. Aside from that though, you did not personally look for inmate witnesses or trustee witnesses or anything like that?

Mosley
A. No, did not. No. Not that I recall.

Nemeth
Q. Okay. And had, had you done that, would it be listed in your memorandum that you (inaudible)?

Mosley
A. Yes. It would.

Nemeth
Q. And it's not, correct?

Mosley
A. It's not.

Nemeth
Q. Okay. The four deputies that were inside the module, Sloan, [redacted], and [redacted] and--

Mosley
A. Kluth.

Nemeth
Q. --Kluth. Did they tell you that anybody else witnessed the incident?

Mosley
A. No. They--I--as I recall, somebody said, this--that it was just--it was us, right here. This is it. This is the--I said, who was involved? And they all said, all of us were, to one extent or another, this is it. I'm, you know, so I, kept them all there, interviewed them on the spot where the preliminary interview to see what the involvement was.

Nemeth
Q. Uh-huh.

Mosley
A. What we had--'cause clinic was evidently on their way to retrieve the inmate, to take him to the clinic and we were trying to get all that stuff handled and that was the only people they had told me that were involved.

Nemeth
Q. Do you remember which person that was out of the group?

Mosley
A. No. I don't. It was--they were all kind of agreeing and--'cause I remember asking them as a group. They were all standing there and I said, who, who was involved, you know, and they all said, we all were, did anybody else see this and they were calling it, all shaking their heads and you know, saying, no.

Nemeth
Q. They were shaken their heads, no?

Mosley
A. No. Right.

Nemeth
Q. Do you remember who was shaking their heads. Any names?

Mosley
A. No. I don't.

Nemeth
Q. There were other deputies there though that you are referring to shaking their heads no, is that right?

Mosley
A. I'm sorry?

Nemeth
Q. You're referring to other deputies shaking their heads, no, that were present?

Mosley
A. I'm talking, no, I'm talking. I'm talking--everybody that was there, as I recall, there was those four deputies there.

Nemeth
Q. Nobody else?

Mosley
A. Nobody else was in that module that I saw--

Nemeth
Q. Okay.

Mosley
A. --deputy wise.

Nemeth
Q. And so, you're referring to these four deputies, Kluth, Sloan, [redacted] and [redacted] shaking their heads, no?

Mosley
A. Right.

Nemeth
Q. When you asked--

Mosley
A. Right.

Nemeth
Q. --did anybody else see it?

Mosley
A. Yeah.

Nemeth
Q. Okay. There's one question I wanna ask you--

Mosley
A. Okay.

Nemeth
Q. --and that is, based on the fact that there's four deputies there. There's four deputies saying they were involved in the use of force, and no other witnesses and nobody else present to witness, who was in the security area for that module?

Mosley
A. As I recall when I got there, and like I said, this is something that I thought about, you asked me this before--

Nemeth
Q. Right.

Mosley
A. --As I recall, Sloan had the door kind of propped--

Nemeth
Q. Right.

Mosley
A. --and, and he was kind of--and I just assumed that he gone ahead and come out of the booth at the time.

Nemeth
Q. Okay. So you assu-, your assumption was that they came--

Mosley
A. You can get in that booth with, you know--

Nemeth
Q. Right.

Mosley
A. --with a key.

Nemeth
Q. With a key, afterwards. So you figured under the circumstances he--

Mosley
A. Came out--

Nemeth
Q. --left his position for a momentary to assist with the--

Mosley
A. Right. That's what I assumed. Yeah.

Nemeth
Q. --inmate?

Mosley
A. Right.

Nemeth
Q. fight, okay.

Mosley
A. And he came out of the--

Nemeth
Q. All right. But did you ever ask him that or that's just an assumption you're making based on what you saw?

Mosley
A. I think that's--yeah. I think that was just an assumption that I made.

Nemeth
Q. Okay.

Mosley
A. You know.

Nemeth
Q. 'Cause that is not, that's one element, that's not addressed in anybody's report?

Mosley
A. Right.

Nemeth
Q. Okay. All right. That's, that's essentially all the questions we had to ask you on this event. Is there at this time is there anything that you want to add or in reviewing your statement, is there any inaccuracies or anything that you want to address at this point?

Mosley
A. No. I after just perusing this--

Nemeth
Q. Uh-huh.

Mosley
A. I think everything is fairly accurate and to the best of my recollection in this, I, I do wanna say that the paperwork leaves a lot to be desired and that is my--partially my responsibility, however, I'd like to say that the policy at the time was a bit confusing and I don't believe anybody really had a handle on what was actually suppose to happen, happen report wise, witness wise, interview wise. I believe it was in a fair state of flux at that particular time at Central Jail. And I'm not sure what was going on outside, because I have limited experience at the time. So, like I said, the paperwork and it's embarrassing to me, 'cause I don't write that kind of paperwork and just reviewing it, I was shocked, but that's the way it stands right now, and like I said, everything else is as true as I can, I can make it.

Nemeth
Q. Okay.

Mosley
A. I wish I could be more help.

Nemeth
Q. All right. What I'll ask you to do is, in the next week, I'll ask you to look over your statements, your prior statements which you possess two verbatim transcriptions there, and if there's anything that is in error or anything that causes you to recollect something different or something additional, then I'm gonna ask you to call me next Thursday, so a week from today, is actually Thursday morning now, so on the January, I'm gonna be out of town. Make it a week from Monday.

Mosley
A. Uh-huh.

Nemeth
Q. A week from this coming Monday, if you would call me and let me know one way or the other, you know, if you've read everything and if there's any problems. And that way we can do a telephonic interview with you if there's some additional statements or something that's caused you to remember some additional information.

Mosley
A. What's the date gonna be?

Nemeth
Q. That date will be, a week from this Monday is gonna be the 11th, 12th, 13th, 14th. I think the 15th. I think Monday is gonna be the 15th, I don't have my calendar.

Mosley
A. I'll just put Monday, 1/15--

Nemeth
Q. Yeah.

Mosley
A. And if it's gonna be in the a.m.?

Nemeth
Q. Yeah. Call the office and if I'm not in they'll have me paged. Anyway no further questions or statements. We'll conclude the tape and the time is 0040 hours.

END OF INTERVIEW

ADMINISTRATIVE RIGHTS/SWORN SUBJECTS

I am **Sergeant John Nemeth** and this is **Sergeant Ernie Gjendem** of the Internal Affairs Bureau, which is commanded by Captain Norman L. Smith.

You are about to be questioned as part of an official Los Angeles County Sheriff's Department administrative investigation.

Do you have a Policy and Ethics Chapter of the Manual of Policy and Procedures? Yes [X] No [ ]
Are you familiar with its contents? Yes [X] No [ ]

You are specifically reminded that Policy and Ethics Section 3-01/040.70 requires that you make truthful statements and Section 3-01/040.75 requires that you make full and complete statements.

This investigation concerns: (Explain allegations /basic reason for investigation.) **Performance to Standards**, FORCE REPORTING POLICY

If this were a criminal investigation any statements you made could be used against you in a court of law. Since this is an administrative investigation, neither your statements nor any information or evidence which is gained by such statements can be used against you in any subsequent criminal proceeding. However, these statements may be used against you in subsequent administrative actions.

You are being ordered to answer questions specifically related to the performance of your official duties and/or your conduct as related to your employment with the Department.

You have the right to remain silent, and you have the right to the presence and assistance of counsel. You are hereby notified that although you have the right to remain silent, failure to answer questions directly related to this administrative investigation may result in your discharge or other punitive action.

You have the right to have a representative of your choice, who is not involved in this investigation, present with you during your interviews. You may tape record this interview if you wish. **You are being ordered not to discuss the facts of this case or any of the issues discussed during your interview with anyone other than your designated representative or attorney in this matter.**

Initials VM

The above admonition has been explained to me and I understand its contents.

DATE: **January 3, 1996** FILE NO. **IAB 008383**

SUBJECT: (Signature) [signature] (Print) VAN EMOSLEY [redacted]

INVESTIGATOR: (Signature) [signature] (Print) **John A. Nemeth** [redacted]

SGT. VAN MOSLEY
I.A.B. INTERVIEW 10-31-95

WITNESS INTERVIEW

CASE NUMBER IAB 008383

SGT. VAN MOSLEY

Nemeth
Q. My name is Sergeant John Nemeth. I'm at the Temple City Sheriff Station, Captain's Conference Room. Today's date is October 31, 1995. The time is 2235 hours. I'm accompanied by Sergeant Gjendem from Sheriff's Internal Affairs and we're present here interviewing Sergeant Van Mosley. First name is Van. Last name Mosley, M-O-S-L-E-Y. This is regarding IAB Case #008383. Sergeant Mosley, prior to going on tape, I've provided you with a copy of your, with your rights as a sworn witness in this case. Did you read, sign and initial the form?

Mosley
A. Yes.

Nemeth
Q. Okay. Do you understand your rights in this case?

Mosley
A. Yes.

Nemeth
Q. Okay. Sergeant Mosley, for the record, could you state your employee number please?

Mosley
A. [redacted].

Nemeth
Q. Okay. As I told you, when we talked briefly before going tape, we're re-interviewing you about the case and involved the use of force at Central Jail back on October 27, 1994. Do you remember that incident?

Mosley
A. Yes.

Nemeth
Q. Okay. Before we get started, do you need to tell the desk that you're here or anything like that?

Mosley
A. I'd already told them we're here. It's a two eleven just occurred. Go ahead.

Nemeth
Q. All right. Okay. So, you're not gonna need to leave or anything like that?

Mosley
A. I don't think. I hope not. Two eleven just occurred, they don't need me there. Just get in the way.

Nemeth
Q. Okay. First thing I need to do is get some background information. When were you promoted to sergeant?

Mosley
A. In March of, March 13, 19, so it will be two years this coming March that I was, 1994.

Nemeth
Q. All right, 3-19-94, and you were assigned to Central Jail upon your promotion?

Mosley
A. Yes.

Nemeth
Q. Okay. And your assignment when you were promoted was what? SHeriff's Information Bureau?

Mosley
A. No, it was the Custody Headquarters Training Unit.

Nemeth
Q. Okay. And, this incident then happened approximately seven months after you were promoted to sergeant, is that right?

Mosley
A. Yes, sounds like that's about right.

Nemeth
Q. Okay, had you been on early morning shift that entire seven months?

Mosley
A. Just about.

Nemeth
Q. Okay. All right, now going back to the night of the incident, October 27, 1994. Do you remember what time you arrived at Module 4400?

Mosley
A. About, just a little bit after 9 o'clock.

Nemeth
Q. 9 p.m.? I mean.

Mosley
A. At the module itself, or on the floor?

Nemeth
Q. At the module for this call (inaudible)?

Mosley
A. No, I don't remember exactly wha, at what time that happened.

Nemeth
Q. Do you know approximately when it happened?

Mosley
A. I'm thinking, I'm thinking around midnight. I don't remember.

Nemeth
Q. Okay. And, how did you learn of this use force that requires your presence there?

Mosley
A. I was called the floor control deputy, Deputy Howard, I believe it was that night...

Nemeth
Q. Okay.

Mosley
A. ...if I'm not mistaken...

Nemeth
Q. Okay.

Mosley
A. ...and she said there was a, they just had a use of force in the module.

Nemeth
Q. Okay. Do you know when the force incident began?

Mosley
A. When it began?

Nemeth
Q. Yes.

Mosley
A. You're talking about time-wise?

Nemeth
Q. Right.

Mosley
A. No, I don't.

Nemeth
Q. Okay, in the reference then, from the time you arrived at Module 4400, which was the scene of this use of force, correct?

Mosley
A. Right.

Nemeth
Q. Okay. How much before you arrived, do you understand it happened?

Mosley
A. I don't remember what they told me. It looked like to me when I arrived, it looked like they had just finished a struggle and had this guy subdued, the inmate. I don't know exactly when it began or I don't remember that time.

Nemeth
Q. Okay. So, in other words, you don't know if you arrived five minutes, ten minutes or twenty minutes after this initially happened?

Mosley
A. No, I really don't.

Nemeth
Q. Is that right?

Mosley
A. Yes. I really don't.

Nemeth
Q. Okay. And when you did get to 4400, did you come by yourself or did somebody accompany you?

Mosley
A. No, I was by myself.

Nemeth
Q. Okay. Who was there, when you arrived? Let's start off easier. How many deputies were there when you arrived?

Mosley
A. You want me to make a guess as to how many I saw?

Nemeth
Q. Well.

Mosley
A. There were, I believe I saw, it was one, two, I'm, I'm thinking about four inside the module.

Nemeth
Q. Okay.

Mosley
A. There were two others that came, as I recall, there were two others that were at the door that had just come down from upstairs, I believe, and then had just arrived, arrived with me at the doorway.

Nemeth
Q. Okay.

Mosley
A. And when they heard the Code 4, they turned around and went back. I don't know who those deputies were.

Nemeth
Q. Okay. Now, you prepared a Force Review Package in this matter didn't you?

Mosley
A. Yes, I did.

Nemeth
Q. Okay. I have it here. Why don't you take a look at it and see if that refreshes your memory to anything. Now, I'm not trying to trick you or anything but there's four deputies listed in there basically, is what you're saying? [redacted], Sloan, [redacted], and Kluth.

Mosley
A. Uh-huh.

Nemeth
Q. Do you remember what any of their roles were at this point without looking at that?

Mosley
A. I believe, as it was told to me.

Nemeth
Q. By whom?

Mosley
A. By Kluth and, I think I interviewed them all. Sloan was inside the Control Booth, no, Kluth was inside the Control Booth.

Sloan came into the module, do you want me to give you the run down as I remember?

Nemeth
Q. Well, do you remember, was Kluth the module officer or?

Mosley
A. Kluth was the module officer as I understand it, yeah.

Nemeth
Q. Okay. Do you know why Sloan arrived?

Mosley
A. They were down there to go eat as I recall.

Nemeth
Q. He came to make a regular chow release to allow Kluth to go to the ODR and eat?

Mosley
A. I think they were, he and, they were, yeah they were all going to eat. They had, yeah, he came to make a chow release.

Nemeth
Q. So, aside from Kluth, [redacted], [redacted], and Sloan, was there anybody else in the module when you got there? I'm talking about...

Mosley
A. There were two...

Nemeth
Q. ...the force point.

Mosley
A. ...there were two other deputies.

Nemeth
Q. Two others?

Mosley
A. And I'm, trying to think who else.

Nemeth
Q. Okay. They're not listed in your memo.

Mosley
A. They're not?

Nemeth
Q. I mean, not that I could see. Maybe if you could find them.

Mosley
A. [redacted].

Nemeth
Q. He's one of the four.

Mosley
A. [redacted]. Those are the two deputies as I was talking about.

Nemeth
Q. Okay, that's four.

Mosley
A. Okay.

Nemeth
Q. Were there any other besides the...

Mosley
A. No. There were not, there were no other deputies inside the module. I said, what I said was when I got there, there were two other deputies that had just run down and stopped at the door. Then someone said it was Code 4 and they turned around and went back. They didn't go inside the module. I had four people there with me when...

Nemeth
Q. Okay.

Mosley
A. ..when I was inside the module.

Nemeth
Q. Was there a, was there a two-striper there?

Mosley
A. Johnson was on that night. He came wandering in later as I remember it.

Nemeth
Q. Jackson or Johnson?

Mosley
A. Jackson. That's it. Jackson (inaudible). He was, he wasn't there at the time that I, that I knew of. He came wandering in afterwards.

Nemeth
Q. Okay. Okay, now when you spoke to Sloan, [redacted], Kluth and [redacted], did any of them tell you there were any other deputies there earlier?

Mosley
A. No. Not that I recall, uh-huh.

Nemeth
Q. Well, it's not in your memo, right?

Mosley
A. No. Right. Without looking at this, I believe what the story was. Kluth was in the booth. Sloan had come in to make a relief. Kluth, he said, "I'm gonna go down and get this guy out of the cell" and he, 'cause he'd been giving him problems all night." Brought him up to the sally port and there, the struggle ensued. Sloan stayed inside the booth, I believe, and [redacted] and, were evidently on their way down or coming down for ch... to go to chow with one of the other.

Nemeth
Q. Are you just kind of remembering this or...

Mosley
A. Yeah, it was the way I remember it.

Nemeth
Q. Okay.

Mosley
A. That's what, what they tell me. They had...

Nemeth
Q. 'Cause that's not anywhere in the memo, right?

Mosley
A. It's not?

Nemeth
Q. I, I just wanna make sure that this, something, you know.

Mosley
A. Okay. Like I said, I can, haven't read this for awhile.

Nemeth
Q. Wanna take a little break and look that over?

Mosley
A. No, we don't have to take a break. We can just go right on if you'd like to. Okay. I mean what, what are we getting at here, is what I?

Nemeth
Q. Okay. So, it doesn't say in there? You don't know how [redacted] and [redacted] got down there? They happened to be up on 5000 prowl that night.

Mosley
A. Right. And from what I remember them telling me was, is that they were on their way down. Sloan said that he was standing there when this whole thing happened. "Knew these guys were coming. How, I didn't, I don't know." He said they were on their way down for chow and he kept saying, "I didn't hear anything going on the radio either." That was the other thing that, I was thinking about he said he just kept hitting the door, he knew they were coming.

Nemeth
Q. The main, the one gate?

Mosley
A. The one gate, right. He said they were, I remember him saying, "All I was, praying that they get here, get here, get here,

and get here." 'Cause we heard no, nothing go out on the all call as far as any 415 or anything like that.

Nemeth
Q. All right. Did you have a radio on that night?

Mosley
A. No.

Nemeth
Q. Okay. Is it normal procedure for sergeants to have radios there or not?

Mosley
A. No.

Nemeth
Q. Okay. Do you remember...

Mosley
A. Some have 'em and some don't. But there wasn't enough radios for everybody to have.

Nemeth
Q. Okay. Where were you when you first learned about this event?

Mosley
A. I was in the office. The fourth floor sergeant's office.

Nemeth
Q. Okay. And, how, how exactly did you learn about it? You say you didn't hear it on the all call. You didn't have a radio. Somebody telephoned you?

Mosley
A. The booth deputy called me. The control booth deputy called me and said, "we just had a use of force in 4400."

Nemeth
Q. Okay. All right. In the sergeant's office, where you were on the 4000 floor, would you hear the PA system for that floor?

Mosley
A. Uh-huh. Yes.

Nemeth
Q. Okay. And then, isn't there also a bell system? Do they still use the bells...

Mosley
A. Yeah, they do...

Nemeth
Q. ...the prowl phones?

Mosley
A. ...but now they don't use it for that. No prowl phones are B/O. It's gone now.

Nemeth
Q. Okay. Okay. So, the normal mechanism for being alerted to a use of force is what? Via radios and/or the paging system.

Mosley
A. It would usually be the, yeah either hear it on the radio if you had one, and if you ever, if you're carrying a radio, they either put it out over the radio, the booth deputy as I recall usually had a radio, was monitoring radios there also. So, they'd either put it out over the radio or the booth deputy would have called it in.

Nemeth
Q. When you say booth deputy, you mean the person...

Mosley
A. Person in the module. Somebody who's in, yeah.

Nemeth
Q. 'Cause there's also a 4000 floor booth officer, right?

Mosley
A. Right.

Nemeth
Q. Okay. So, it would be the radio or on the telephone phoning it in to the, to where? To Main Control or to the 4000 Control or?

Mosley
A. Usually, it would come into Main Control then Main Control would put it out over the, now, depending on who found out about it first before, the floor control officer, am I picking up leaning back like this, you think?

Nemeth
Q. Yeah.

Mosley
A. Okay. Depending on who, who got it first. If the floor control officer observed something in the hallway, she would call [redacted], they would put it out over the all call while she also would put it out on the, on the, there, there's an all call P.A. system in...

Nemeth
Q. For just 4000 floor? Okay. All right, so neither of those events happened though, right?

Mosley
A. Not that I remember.

Nemeth
Q. Okay.

Mosley
A. I had just got notified by the booth.

Nemeth
Q. Okay. And, you, when you got there, you spoke to these four guys and they told you, Kluth, [redacted], Sloan and [redacted], they didn't make any mention of anybody else having been there at all?

Mosley
A. No. Not that I remember.

Nemeth
Q. All right. And I think you said as your understanding from talking to, to all of them, was that Sloan came in to make a normal relief to allow Kluth to eat his dinner and at that point, Kluth spoke to or confronted an inmate that had been giving him some trouble earlier that had been locked out on a row. Is that right?

Mosley
A. Right.

Nemeth
Q. And, did that involve taking him out of that, that row, which was Baker row and putting him into the sally port area in front of the 4400 module officer's control booth area?

Mosley
A. I remember what he told me was that this guy every time he was in a cell or he kept putting new inmates and as they went in he said that every time they opened it up, or court returnees, one of the other. Every time it opened up, he said, this guy'd step out, wouldn't go back in, giving him problems.

Nemeth
Q. Okay.

Mosley
A. So, he was gonna go down to take him off the row and do what with him, he didn't say. He didn't get to that point.

Nemeth
Q. Okay. Is that an appropriate tactic or procedure for a module officer to utilize?

Mosley
A. No.

Nemeth
Q. What's the correct tactic?

Mosley
A. It would be, if an inmate is giving an officer problems, number one, he wouldn't go down there, shouldn't have gone down there by himself. Number two, he should have called the supervisor

to the, to assist or to observe if an inmate's giving him problems. That was the procedure at the time.

Nemeth
Q. Okay. And then, additionally, he didn't direct the inmate to turn around and back up with his hands to the gate, so he can easily handcuff him before he took him off the row or anything like?

Mosley
A. No, I don't believe so 'cause he was, apparently, there was a, either a, a heck of a fight there. So, and he said he had him in a headlock, so I would assumed that no he did not and they...

Nemeth
Q. Meaning the inmate had Deputy Kluth in a headlock?

Mosley
A. Right. And, so I would assume that he did have, he was unhandcuffed.

Nemeth
Q. Okay.

Mosley
A. He was when I arrived but...

Nemeth
Q. Yeah.

Mosley
A. ...according to them, they...

Nemeth
Q. You believe a fight really happened based on what you saw there?

Mosley
A. What I saw, yeah. It looked like a fight happened. Kluth was marked up pretty good.

Nemeth
Q. Okay. Did, did anybody photograph Kluth or his uniform or appearance or anything like that after the event?

Mosley
A. No.

Nemeth
Q. Okay.

Mosley
A. Or did we? I'm trying to think now. Yeah, I believe we did. I believe there's polaroids somewhere. I think we did. I think the watch commander, we went down and taped the suspect and I believe he got Kluth's neck 'cause he had scratches.

Nemeth
Q. You remember polaroid photos being taken because I supposedly have everything for this case...

Mosley
A. You, you don't have any?

Nemeth
Q. ...and there are none, to my knowledge. That's why I'm asking you.

Mosley
A. Well, I remember taking, I took photos of the suspect and I remember there were polaroids when...

Nemeth
Q. I have those.

Mosley
A. You have those but you don't have any of...

Nemeth
Q. I have a video of the suspect. I don't have any video of the deputy. I don't have any pictures of the deputy.

Mosley
A. That's funny 'cause I seemed to recall when he was there.

Nemeth
Q. It doesn't say anything about photoing the deputy in the memo either, does it?

Mosley
A. This is a, this is a, it's not a very good memo, is it?

Nemeth
Q. Ernie, you got something.

Gjendem
Q. Yeah, I just want ask about the photos. Could the photos have been submitted with the inmate, the deputy injury report because Deputy...

Mosley
A. Could have been.

Gjendem
Q. ...Kluth, he was injured in this altercation?

Mosley
A. Yes, he was. Yeah.

Gjendem
Q. Was he not?

Mosley
A. Yes, he was.

Gjendem
Q. I recall that you did the injury report. I mean deputy injury report.

Mosley
A. I believe I did, yes.

Gjendem
Q. Okay.

Mosley
A. I would have, if there was one. I don't, I'm telling you guys I don't remember a whole lot of, the real details of...

Nemeth
Q. Right.

Mosley
A. ...what happened after that.

Nemeth
Q. Do you remember taking photos or now you're just kind of thinking (inaudible)?

Mosley
A. No, I'm thinking, as I recall, we were in the clinic. He came down and I...

Nemeth
Q. He, being the inmate or Kluth?

Mosley
A. He being Kluth. I remember we did take, we got the photos of the inmate we know that and we video taped that, but I remember Kluth standing there and I said, "Are you all right?" I asked him that once in the module and then he came in I said, "Let me see what," I believe he came down there afterwards. I said, "Let me see your neck in the light," 'cause it was kind of dark when I got into the module. In fact, it was darn near pitch black. I said, "Let me see exactly what, what happened to you. Where, where else are you hurt?" And we were standing there, I believe I went, I remember snapping one of this 'cause he had scratches on his neck I believe. I can't remember any other injuries that he had. I remember he said he neck was twisted and that kind of thing.

Nemeth
Q. Okay. You said, you thought it was pitch black in there. Can you describe...

Mosley
A. It wasn't, wasn't pitch black, but I mean, but it was dark. There had been a night light, night lighting system.

Nemeth
Q. Right. Those were activated, correct?

Mosley
A. Those were activated. The module lights, the main module lights were not on when I got there.

Nemeth
Q. Okay. Was the lights on in the Baker/Denver row shower, if you remember?

Mosley
A. No. As I recall, those were off, too. They were, it was pretty, pretty dark all around 'cause I remember walking in there. I remember guys, they were using their flashlights to kind of look on the floor and do all that kind of stuff, to look around.

Nemeth
Q. And the, the entry way to the module where the pay phone is and the area where the actual altercation occurred, which is in front of the, started on the AC Abel/...

Mosley
A. Right.

Nemeth
Q. ...Charlie side, went over to Baker/Denver side. Those, those overhead fluorescent lights, were they in the night light condition?

Mosley
A. They were in the night light. The whole module was in the night light mode.

Nemeth
Q. Okay. So, that put, the lights, lighting for that area?

Mosley
A. Right. You can see but not real well.

Nemeth
Q. Okay. So, you think you took photos of him but there's no mention of 'em in the memo and I could tell you that according to the people at Central Jail I have every piece of...

Mosley
A. They don't remember.

Nemeth
Q. ...paperwork, photograph, or anything that's connected to this case.

Mosley
A. Watch commander didn't take them? Hmm.

Gjendem
Q. Looking back over the SHR49 also, there's no mention of them in the report and also there's no evidence that was booked, so, apparently the photos weren't put in evidence.

Mosley
A. Okay. Well...

Nemeth
Q. There were four deputies in Module 4400 when you arrived and you spoke to each of them individually, did you?

Mosley
A. Yes.

Nemeth
Q. Okay. And they each tell you essentially the same, same sequence of events?

Mosley
A. Essentially, yes.

Nemeth
Q. Okay. And not one of them mentioned to you that there were any other deputies present during the use of force?

Mosley
A. I don't remember, recall anybody saying there were, other than those four guys were there.

Nemeth
Q. All right. Had somebody told you that, would you have written it in your memo?

Mosley
A. Yes, I would have.

Nemeth
Q. Okay. It's not in your memo, right?

Mosley
A. No.

Nemeth
Q. Okay.

Mosley
A. It's not.

Nemeth
Q. Does that lead you to believe that nobody told you that then?

Mosley
A. Yes it does.

Nemeth
Q. Okay. When you, when you got there and you spoke to the deputies, what was, what was the inmate's condition when you arrived?

Mosley
A. He was lying on the floor, on his side, rip hobbled, and there was a, his head was, I believe he's on his right side and his head was in a pool of blood from the cut, which was over his left eye, I believe. I believe he was on his right side when we got there.

Nemeth
Q. Okay. And do you remember where, where, which direction or what object in the module his head was near?

Mosley
A. The shower bars, it was in that little alcove there from the, is it Baker/Denver or, I think it was Baker/Denver gates...

Nemeth
Q. Right.

Mosley
A. ...'cause in that alcove there, just, where it goes in, there's a trusty...

Nemeth
Q. Cleaning closet right there, uh-huh.

Mosley
A. Cleaning closet right there and that's where he was facing, his head towards the bars.

Nemeth
Q. Okay. How far, do you remember how far or how close his head was to the bar?

Mosley
A. About a foot or two.

Nemeth
Q. Foot or two. And was the blood in that general area also.

Mosley
A. Yes. The blood was in that general area.

Nemeth
Q. Okay. Did you see blood on the other side of the module?

Mosley
A. No.

Nemeth
Q. Nothing?

Mosley
A. No.

Nemeth
Q. Okay.

Mosley
A. I just remember that pool of blood there.

Nemeth
Q. Okay. And you said rip hobble, which includes being handcuffed, his hands are handcuffed and the rip hobble...

Mosley
A. They're up to the, yeah.

Nemeth
Q. Wrapped around his ankles, securing them and then that's clipped to the handcuffs.

Mosley
A. The handcuffs, right.

Nemeth
Q. Okay. All right. And did the inmate complain of pain to you?

Mosley
A. At that time he didn't and I remember, the only time I remember him complaining of pain to me was when we took, got, gotten him to the clinic. We were asking him, "Where do you hurt?" Then he said, "My head hurts." That's the only time I remember, we, we did the interview with him there. What had happened and that was the only time he ever complained of pain was, 'cause he said, "My head hurts." Didn't complained of pain anywhere else that I recall.

Nemeth
Q. Okay. And, in your course of interviewing the deputies, did you interview any witnesses aside from the four deputies and the inmate?

Mosley
A. No. Other than the four deputies, no I didn't.

Nemeth
Q. Okay. Did you ask the inmate what, what happened?

Mosley
A. Yes.

Nemeth
Q. What did he say?

Mosley
A. He said, as I recall, he said that the deputies, at the time we interviewed him, he said that the deputies said some bloods or crips were going to gonna get him that were in his cell. He said the deputies saved my life. Pulled me out of there and saved my life and that's, essentially what he said, he said they were, he said that, I think, I believe he said the injury was caused by the crips and they were gonna beat the snot out of him or something and the deputies saved his life. That's what he said at the time.

Nemeth
Q. Okay. And, did you believe that?

Mosley
A. No.

Nemeth
Q. Why not?

Mosley
A. Because they were, he was in a mental module, for one thing. We knew he had mental problems. He was acting crazy, you pardon the expression. And there were no bloods or crips that we knew of in that module at the time. So, and according to the deputies' statements, there were, nobody else had attacked him except...

Nemeth
Q. Deputies used force on him?

Mosley
A. Deputies used force on him, right.

Nemeth
Q. Which explained the injuries.

Mosley
A. Right.

Nemeth
Q. And, and when you say he was acting crazy. What was he doing that caused you to form that opinion?

Mosley
A. Well, this is, this is according to deputies. Now, when I got to him he was fairly, when we got, I got there, he was fairly calm.

Nemeth
Q. Okay. So, did you see him do anything that you would consider...

Mosley
A. Well, just to be...

Nemeth
Q. ...caused you concern about...

Mosley
A. ...just the way he was talking when we got him, when he was on the gurney, he was...

Nemeth
Q. About these bloods and crips?

Mosley
A. About the bloods and crips and how the deputies saved his life and everything else.

Nemeth
Q. Which made no sense based on what the deputies told you?

Mosley
A. Not a consistent statement to what was, what had happened.

Nemeth
Q. Okay.

Mosley
A. 'Cause usually they scream bloody murder when, they'd been involved in something like that. That's, that was, that'd been my experience.

Nemeth
Q. Okay. And, I don't wanna, I'm trying to paraphrase. I don't wanna put words in your mouth but is it, in my, understanding you

correctly to say that the, you kind of dismissed his comments based on the fact that he was in a mental observation module?

Mosley
A. Yes, I did. He didn't, he, I remember him saying that the deputies hit, was saying that the deputies hit you and he said, "No. They, they saved my life." He didn't say anything about anybody hitting him at all.

Nemeth
Q. Okay. Did you direct anybody or to look for any witnesses to the incident?

Mosley
A. As far as, you mean any witnesses, like inmates, no, I did not.

Nemeth
Q. Okay. All right. So, you didn't ask any deputies to go on the row and ask anybody if they saw anything or anything in that nature?

Mosley
A. No. 'Cause as far as I knew, they couldn't see anything from their cells anyway. Where the, you know, there was nobody that I could see in the immediate area other than the deputies and anybody down the row wouldn't have been able, they might have been able to hear but I don't think they could have seen anything.

Nemeth
Q. Okay. Did you noticed an inmate in the Baker Row shower?

Mosley
A. No, I didn't.

Nemeth
Q. Did you hear any deputies direct an inmate in the Baker Row shower to turn around and face the wall?

Mosley
A. No, I don't remember that at all.

Nemeth

Q. Okay. You're not certain exactly what time you got there, right?

Mosley

A. No.

Nemeth

Q. What hour it was?

Mosley

A. No, I didn't.

Nemeth

Q. You also don't know how soon after the event you got there, is that right?

Mosley

A. No, I really don't. I do know that the pool of blood when I got there was probably two, two feet in diameter, maybe. So, he'd been bleeding according to... it was a pretty good head wound. That could have happened fairly quickly but the size of the pool of blood I saw there was pretty consistent with him not being moved or, or doing anything like that. He was laying in the blood that he was...

Nemeth

Q. And can you describe the blood?

Mosley

A. The blood looked fresh from what I could see there. It looked, it was red. I didn't see any coagulation or anything like that. I mean it was, it wasn't smeared or footprints anywhere or anything. It's just from the deputies trying to skirt around. When I was there, the deputies were standing by him and it looked like he'd been...

Nemeth

Q. Okay. I just wanna make sure we got the tenses correctly. Today, right now, you've already, you know, you've talked to the deputies, you know, a long time ago and them relating the story to you, you still don't know how much time had lapsed from when they say the event was over to when you got there. They didn't say,

"Yeah this just happened," or, "yeah, it happened about ten minutes ago," you know, or what? You can't tell me, can you?

Mosley
A. No, I can't.

Nemeth
Q. Okay.

Mosley
A. Do we have an indication of what time they say it happened?

Nemeth
Q. Yeah, I do. But see I need to know when you were there and, and it's difficult to fix it, to fix that time frame unless you had like a notebook or anything like that, which by the way, did you, did you make a notebook or do you keep a daily journey or anything?

Mosley
A. I keep, yeah I have my field notebook and I'm not sure if I wrote anything down in it or not about this.

Nemeth
Q. Okay. Would this be the same notebook that you would have noted it?

Mosley
A. This is the notebook. I only have one notebook.

Nemeth
Q. All right. Do you wanna take a, take a minute and review it just in case something's in there? Actually, let's take a quick break. It's 2305. Back on tape. It's 2310. Sergeant Mosley reviewed his notebook which he had at the date and time of this incident and found that there is no, there are no notes or entry made for this and he surmises that he might have utilized loose piece of paper, written his notes on that and then destroyed that after completing his force review package Is that correct Sergeant Mosley?

Mosley
A. Yes.

Nemeth
Q. Okay. Okay. The next, the next thing I had, I had, I need to ask you is, and I believe we did but I'm just gonna clarify. Did you interview the involved inmate whose name is [redacted]? Did you interview his cellmates that night?

Mosley
A. No.

Nemeth
Q. Okay. Did anybody to your knowledge?

Mosley
A. Not to my knowledge, no.

Nemeth
Q. Okay. Did you approve the crime report written in this incident, which I have here. It's a five pages under file #940335751 is the truncated URN and appears to have...

Mosley
A. Yes, that's my signature.

Nemeth
Q. Your signature at the bottom, okay. In approving that report, do you believe it fully described the use of force incident, what lead up to the use of force and the injuries to the inmate and how he sustained them?

Mosley
A. I believe so. Could I read and see what's?

Nemeth
Q. Sure. Sure. Yeah take your time and read it over because the next series of questions will deal specifically with what the deputies told you. Back on tape. Back from a brief break to review the supplemental reports in the crime report written by the deputies involved in this case and Sergeant Mosley, the question was, prior to, prior to the break, in this file is the report that you approved, which is the first report written by Deputy Kluth and now that you've reviewed it, do you feel that it gives an articulate, accurate picture of what happened?

Mosley
A. The incident itself?

Nemeth
Q. Yes.

Mosley
A. As it was related to me, no.

Nemeth
Q. And are you...

Mosley
A. As I remember it, no.

Nemeth
Q. Okay. And are you referring to the part of the narrative of this first crime report where it states that Deputy Sloan and Deputy Kluth were both involved in subduing the inmate?

Mosley
A. Let me make that correction. As far as I understand it, as I remember, Deputy Sloan told me, Deputy Sloan told me that he was already in, he was the one that relieved Kluth to have him exit the booth to call inmate off the row. So, as I recall, as I recall he was in the booth.

Nemeth
Q. All right. So, this report refers to, to Sloan and Kluth working together to subdue inmate [redacted], is that right?

Mosley
A. Yes.

Nemeth
Q. And it also mentions Deputy [redacted] or Deputy [redacted] arriving in the module to help, right?

Mosley
A. Yes.

Nemeth
Q.   Okay. So, based on this you wouldn't know that there was another person involved then would you? I mean reading this as it states it right here, it indicates that there is nobody in the 4000 control booth, right?

Mosley
A.   That says, I read up there, yes.

Nemeth
Q.   Okay. And is that a violation of jail procedure?

Mosley
A.   Yes.

Nemeth
Q.   If there were nobody in that booth?

Mosley
A.   Right. If there were nobody in that booth, yes.

Nemeth
Q.   But the other question is. Isn't it possible that somebody came in and relieved the booth to allow Sloan to come out?

Mosley
A.   It's possible.

Nemeth
Q.   Okay. But you have no knowledge of that happening, is that right?

Mosley
A.   I have no knowledge of that happening. It's not the way it was related to me.

Nemeth
Q.   Okay. All right. Now, as far as the supplemental reports, one each written by [redacted], [redacted], and Sloan, do you remember reading those on or around the time of this incident?

Mosley
A.   No, I don't.

Nemeth
Q. Are you saying that tonight you're looking at 'em is the first time you've seen 'em?

Mosley
A. This is the first time I've seen that, those, yes.

Nemeth
Q. Okay. And on those forms, is there any place where you see your name or initials or sign, any kind of a sign off...

Mosley
A. No.

Nemeth
Q. ...or block? So, in fact, there's no indication of anybody approving it or, or, so, who approved it, is that right?

Mosley
A. Right.

Nemeth
Q. Okay. All right. All right. Now, we've already talked about Kluth, Sloan, [redacted] and [redacted]. Did you ask each of them, separating and individually, what force they used?

Mosley
A. As I recall I did, did separate them and asked them what happened.

Nemeth
Q. Okay. Did they go into any detail with you because the force of use package doesn't contain any details?

Mosley
A. No. No, it doesn't.

Nemeth
Q. All right. So, do you, you know, we've already looked at your notebook and there's no notes in there either.

Mosley
A. No, there isn't. There aren't.

Nemeth
Q. Okay. So, do you remember writing notes on this loose piece of paper exactly about what they did or, and then leaving it out of the memo or perhaps you didn't ask them at all?

Mosley
A. I remember asking Sloan what he did. I remember asking Kluth what he did separately. I remember asking [redacted] what he did at different, different times as to what happened. They were, essentially related the same story. Now, as far as my notes go, I'm not in the habit of taking details, pages and pages of notes. If I took some notes, they would have been paraphrased or something to that effect.

Nemeth
Q. And the purpose for the note is to include it in the report, right?

Mosley
A. Right.

Nemeth
Q. Okay. I'm not trying to beat a dead horse or anything but...

Mosley
A. No, I know.

Nemeth
Q. ...I just need to get a good record on the fact that, at this point, we don't know, at least from, from the official documents and any notes that you, that you have, we don't know exactly what they told you.

Mosley
A. No we don't.

Nemeth
Q. What [redacted], Sloan, [redacted] and Kluth told you in the way of what exact force they used, is that right?

Mosley
A. Right.

Nemeth
Q. Okay. Did you ask each of them separately and individually when you spoke to them if there were any witnesses to the event? Deputy or inmate? Or did, or perhaps that didn't come up?

Mosley
A. No, I, I remember asking. I said, "Did anybody see this" and when I walked in, I looked around to see who was there. So, I recall the two deputies at the door who arrived about the same time I did from another floor. They, once I got to the door...

Nemeth
Q. And those were who?

Mosley
A. I don't, I don't remember. They just...

Nemeth
Q. So, that's somebody apart from these four guys that we're talking about?

Mosley
A. Right.

Nemeth
Q. Okay.

Mosley
A. And I asked them, I remember saying something, "Did you guys," 'cause I remember them, we both arrived at the same time. I said, I said, "Is it Code 4" and assuming it was, they turned around and went right, gone back to their stations. So, I just assumed that they hadn't seen anything.

Nemeth
Q. Did you say, know where they were working that night or?

Mosley
A. No.

Nemeth
Q. Okay.

Mosley
A. I don't remember. They just turned around and went right back out the door. I was just intent on getting in to see what was going on in there. They did not come out of the module.

Nemeth
Q. And, so you came in, you said you were asking did anybody see what happened, is that what you were saying?

Mosley
A. Yeah. Did anybody else see what happened?

Nemeth
Q. Right. Uh-huh. And that was the question posed to the group, is that right?

Mosley
A. Yeah, to the group. Were there any trusties, you know, and I don't recall any other, some people as I recall when we were standing there and talking and I'm looking at the blood and everything else, I think a trusty came in from down the hallway and was there for a minute while we were talking and went back out. I don't recall anybody else. I didn't interview anybody else as far as witnesses go. That I didn't know.

Nemeth
Q. Okay. All right. Let me ask you this. Did, did, now you say that you remember or you think that you asked each of these deputies individually exactly what force they used?

Mosley
A. I'm pretty sure that I asked each, each one what, what they did. What was their part in it.

Nemeth
Q. Okay, but you can't tell me what their answers were at this point?

Mosley
A. No, I can't.

Nemeth
Q. Okay. Then, did you ask them, each and individually, did anybody punch inmate [redacted] in the testicles? Did you ask that, that question?

Mosley
A. No, I didn't ask that question.

Nemeth
Q. Did anybody say they punched him in the testicles or admit that to you?

Mosley
A. No.

Nemeth
Q. Did you ask 'em, each and everyone of them individually, did they, did any of 'em squeeze inmate [redacted] testicles?

Mosley
A. No.

Nemeth
Q. And, did anybody volunteer and say they did?

Mosley
A. No.

Nemeth
Q. Same question as to kneed inmate [redacted] in the testicles? Did anybody say they kneed him in the testicles?

Mosley
A. No.

Nemeth
Q. Do you remember any deputy saying that he was kneeing [redacted] as part of the force he was applying?

Mosley
A. I don't recall anybody saying they kneed him.

Nemeth
Q. Okay.

Mosley
A. I believe all the force that was, I believe all the force they said was used was restraint or, I don't remember. I really don't remember.

Nemeth
Q. Okay. Did any of the deputies state to you when they were...

Mosley
A. You know I do recall and I don't remember who. I do recall. I think I recall somebody saying they were trying to get him to, they had used their knees some place and I don't.

Nemeth
Q. Okay. In the supps, [redacted] states that he applied some knee thrusts to [redacted] rib area...

Mosley
A. Okay.

Nemeth
Q. ...like that. That may be what you're thinking?

Mosley
A. Yeah.

Nemeth
Q. Now, the question I'm asking though is, did anybody say they kneed inmate [redacted] in the testicles?

Mosley
A. No. That I do recall.

Nemeth
Q. Or anywhere near the groin, crotch, buttocks area, inner thigh area?

Mosley
A. No. I recall the rib cage and that's about it.

Nemeth

Q. Okay. Did any of the deputies involved, and we're talking about [redacted], Sloan, [redacted] and Kluth, did any of the four of them say they touched inmate [redacted] genitals in any fashion whatsoever?

Mosley

A. No, not that I remember.

Nemeth

Q. Okay.

Mosley

A. To tell you the truth that didn't come up.

Nemeth

Q. Okay. And, we've already talked about kneed, squeeze. Did anyone say they kicked [redacted] anywhere?

Mosley

A. No, no.

Nemeth

Q. No kicking at all? You don't recall anybody saying anything about kicking?

Mosley

A. I don't recall any kickings.

Nemeth

Q. Okay. How about impact weapons. Did they say they used flashlights, saps, baton, any type of impact weapons?

Mosley

A. No, I don't believe they did.

Nemeth

Q. Did they explain how [redacted] received the laceration over his left eyebrow?

Mosley
A. Yes. I believe when I asked Deputy Kluth how he thought he got it. He said he was going from side to side. He thinks that while he had...

Nemeth
Q. Wait. When you say going from side to side what does that mean?

Mosley
A. One side of the module to the other.

Nemeth
Q. They were wrestling at that point together?

Mosley
A. ...during the struggle.

Nemeth
Q. Right.

Mosley
A. I believe he said that, he thinks that while he had him in the headlock, he said he, I remember he said he decided to go to the ground and he wasn't gonna let him run him into the bars. Let the in-, being, him being Kluth, wasn't gonna let the inmate run him into the bars so he decided just to go to the ground with him and he thinks that's when, he said he had his head next to the, you know, in a tight headlock and he said as they fell, he thinks that's when it had happened. He said he thinks he struck it on the, on the, on the floor.

Nemeth
Q. Okay, just to get the right attribution, who had who in the headlock?

Mosley
A. Kluth said that the inmate had him in a headlock.

Nemeth
Q. The inmate had the deputy in a headlock.

Mosley
A. Right.

Nemeth
Q. And then you were saying he decided to take him to the floor. Who decided that he...

Mosley
A. He said he decided to, instead of letting the inmate run him into the bars.

Nemeth
Q. This is Kluth talking?

Mosley
A. Kluth talking right. Let him, instead of letting him run him into the bars, he, he decided to go to the floor with the inmate, just to, so he, so that at least they wouldn't be traveling anymore.

Nemeth
Q. Okay, with some type of a leg sweep or something like that?

Mosley
A. I think what he said was he just collapsed on the floor.

Nemeth
Q. Okay, released his body weight to try and drag the inmate down.

Mosley
A. Right. That made sense to me, at the, at the time. Since they were, they had him in tight, and he said he, he heard, heard him go down, he thinks that when he split his eye, because I did ask him that, how do you think he got the eye injury?

Nemeth
Q. Do you remember which arm he said, Kluth said the inmate had around his neck in the headlock?

Mosley
A. No, I don't.

Nemeth
Q. It's not indicated in the force memo, anywhere.

Mosley
A. I do remember he had.

Nemeth
Q. Okay.

Mosley
A. This guy Kluth had scratches on the left side of his neck. So, let me think, and he said he injured his elbow also when he went to the floor, is that in there.

Nemeth
Q. Okay, well, Deputy Kluth's crime report says that [redacted] had his right arm around his neck. Now, the injuries on [redacted], inmate [redacted] left eye, is that correct, is that your memory of it?

Mosley
A. Yes, I believe that's...

Nemeth
Q. Did he go any, did Kluth go into any detail on what configuration their bodies were in to explain how that would happen? He has his right arm around him in a headlock, how the left, the left temple area gets the wound.

Mosley
A. No, I think he said and I, he wasn't clear on if he was sure that's how it happened, that's just what he told me how he thought it happened.

Nemeth
Q. Okay, did we ever come to any conclusion exactly how it happened from the force inquiry that was conducted by, by the watch commander then?

Mosley
A. I don't know, I don't know, or I don't believe other than this, I don't believe I ever read any summation or any, any, I

don't, this is the last, once I wrote this, and got that approved, this is the last I ever saw of it.

Nemeth

Q. Okay. Okay. Alright, so you get to the module, you find out what happens, eventually, the clinic, medical staff arrives, they take [redacted], [redacted] down to the Central Jail clinic on the first floor, is that right?

Mosley

A. Uh Uh.

Nemeth

Q. And, at that point, it's determined he needs to be transported to LCMC for further treatment, is that correct?

Mosley

A. Right.

Nemeth

Q. How does [redacted] get to the hospital? If you know?

Mosley

A. I don't know. I don't know if the radio car took him, or I really don't know, 'cause I didn't instruct that, that end of it, I didn't say get him in the...

Nemeth

Q. Alright now, you may not know the answers, but I have to ask the questions.

Mosley

A. Right.

Nemeth

Q. Okay.

Mosley

A. Okay.

Nemeth

Q. You don't know if he was sent in the radio car, or if he was sent in the hosp, via ambulance...

Mosley
A. No.

Nemeth
Q. ...is that right?

Mosley
A. No, no, I don't.

Nemeth
Q. You don't know if a deputy escorted him or if he was sent by ambulance, do you?

Mosley
A. No.

Nemeth
Q. Is there any report or any documentation that you're aware of that exists that documents how [redacted] got to the hospital, who transported him, things of that nature?

Mosley
A. Not that I'm aware of, no.

Nemeth
Q. Okay, okay. Do you remem-, did you explicitly ask the deputies did they kick [redacted] or you didn't, you may not have explicitly asked, did you kick him, you may have just said what happened, and they...

Mosley
A. Right.

Nemeth
Q. ...is that pretty much how it went?

Mosley
A. Right.

Nemeth
Q. You said what happened and they told you?

Mosley
A. (Inaudible).

Nemeth
Q. And then nobody volunteered, saying they kicked him?

Mosley
A. No.

Nemeth
Q. And you didn't explicitly ask, did you kick him?

Mosley
A. No.

Nemeth
Q. Alright, okay.

Mosley
A. The only injury I saw on him at the time was the, the...

Nemeth
Q. Was the head injury.

Mosley
A. ...was the head, I looked, I remember looking him over with a flashlight, and seeing (inaudible) getting him down, and not seeing, we lifted his shirt up, and...

Nemeth
Q. Okay.

Mosley
A. ...not seeing any other injuries, I, that's what I used to look I did look for that, but other injuries and seeing if they were consistent with what I thought was going on at the time.

Nemeth
Q. Alright, and then have you later, have you since learned that, that [redacted] sustained an injury to his testicles?

Mosley
A. Yes.

Nemeth
Q. And what do you understand that to be?

Mosley
A. I believe they said it was crushed testicle, I don't know which one, but that was the, the terminology used.

Nemeth
Q. Right.

Mosley
A. To describe it.

Nemeth
Q. How did you learn of that?

Mosley
A. I believe it was Sergeant (sighs).

Nemeth
Q. An ICIB sergeant when he spoke to you?

Mosley
A. An ICIB sergeant told me. Right.

Nemeth
Q. Okay, and...

Mosley
A. I may have learned of it sooner, I'm not sure if somebody told me...

Nemeth
Q. Okay.

Mosley
A. ...I think that was the first time I'd heard of it.

Nemeth
Q. Okay, and [redacted] didn't complain of any injury to his testicles to you?

Mosley
A. No.

Nemeth
Q. And to your knowledge, were you present at, I think you said you were present at the clinic when he was treated...

Mosley
A. Yes.

Nemeth
Q. ...and interviewed on video tape?

Mosley
A. Yes.

Nemeth
Q. Did he make any mention of it to anybody there?

Mosley
A. No.

Nemeth
Q. Okay, alright. Okay. Well, let me just say this. Since [redacted] was, was under the care of a medical technician at least from the point the clinic got there to the use of force scene, until the point he arrived at LCMC where he was, of course, in a, in a hospital, is there some point between when he left your sight at the clinic, to where he arrived at LCMC that something could have happened to his testicle?

Mosley
A. It's possible.

Nemeth
Q. Okay, again, is there any indication of how he got to the hospital, or if he was escorted, or if so, by whom?

Mosley
A. No, I don't recall any, like I said, when I, after, after we leave him at the clinic, the hospital section then takes over and does that, I don't believe any of the deputies that were involved, they were all busy with their respective paperwork, so I don't

believe any of the deputies that were involved would go with him. Now, that was definitely not the procedure, if they've been involved in a...

Nemeth
Q. Right.

Mosley
A. ...in a altercation with an inmate, you would definitely wouldn't send with them with, with the inmate.

Nemeth
Q. Sure.

Mosley
A. And, so I don't believe they were involved in that, but it's, I, I don't know that for a fact, and...

Nemeth
Q. Okay, in your experience as both prior to being promoted to sergeant when you worked in the central jail training unit and then as a sergeant there at Central Jail, is there a log kept of inmates transported to LCMC and how they get there?

Mosley
A. I don't know.

Nemeth
Q. Okay, you're not aware of one?

Mosley
A. I've never, no, I didn't work the hospital, and I don't know, I've never, I recall that sometimes they're transported by ambulance, sometimes they're transported by radio car, and depending on the severity of injuries, and all that so the, at the time, the injury was such that it was a pretty bad split, but it wasn't life threatening, so...

Nemeth
Q. Right.

Mosley
A. It might...

Nemeth
Q. It may have been radio car?

Mosley
A. It may have been a radio car.

Nemeth
Q. Okay. Alright, that's all. Sergeant Gjendem.

Gjendem
Q. Yes. Who was the watch commander on duty that evening or that morning?

Mosley
A. Sergeant Chuck Duncan, I believe.

Gjendem
Q. Okay, and who found, who notified Sergeant Duncan of this?

Mosley
A. I believe I did.

Gjendem
Q. Did you?

Mosley
A. Yeah, that we had a, yeah, that we had a use of force.

Gjendem
Q. Okay.

Mosley
A. It's my responsibility.

Gjendem
Q. Okay, and where was he?

Mosley
A. He was in the watch commander's office, down on the first floor.

Gjendem
Q. Are you sure of that?

Mosley
A. When I notified him?

Gjendem
Q. Uh-huh.

Mosley
A. I believe he was, yes.

Gjendem
Q. Okay, and, you said that you were in the fourth floor sergeant's office when Howard called you?

Mosley
A. Uh-huh.

Gjendem
Q. How long after did she tell you how long prior to the incident that she called you? Let me rephrase that. Did she say, tell you how long ago the incident had happened...

Mosley
A. No.

Gjendem
Q. ...when she called you?

Mosley
A. No, she didn't. She just, as I recall, her words were, just had a use of force on 44 and you need to go there or something to that effect.

Gjendem
Q. Did you remain in your office for any length of time after the notification?

Mosley
A. No, I, I got right up and went down there.

Gjendem
Q. And how long would it take you to go from your office to get down to 4400?

Mosley
A. About 20 to 30 seconds at the most.

Gjendem
Q. Is there a procedure documented at Central Jail regarding the removal of a recalcitrant inmate from the, from a cell, or from a, from a row?

Mosley
A. Yes.

Gjendem
Q. There is?

Mosley
A. Uh-huh.

Gjendem
Q. Okay. Once again, I believe the question was already asked, but did you interview any inmates on any of the rows inside 4400?

Mosley
A. No, I did not.

Gjendem
Q. When you got inside the, when you went inside the main door, the main door of 4400, where were the four deputies at, do you recall that?

Mosley
A. I don't recall specifically, but I remember, as I remember it, they were all in the vicinity of the, of the inmate who was lying on the floor. They were all in the general vicinity, as I recall, and I don't remember exactly where they were, but I remember, I believe I asked who was here, who, who's involved, who used force, who saw this, and they all said, I did.

Gjendem
Q. All four of them were there?

Mosley
A. I believe all four of them, yes, I believe so.

Gjendem
Q. Okay. You recall who was in the booth then, at 4400 module booth? If anyone?

Mosley
A. I don't believe anyone was at the time.

Gjendem
Q. In the...

Nemeth
Q. Is that a violation of jail...

Mosley
A. Yes, it is.

Nemeth
Q. ...security or something like that.

Mosley
A. And like I said, I don't know whether Sloan said he was inside the, inside the booth, that I do remember, but he had come out when I got there, or that I don't remember, whether he had the door popped which a lot of times they will, and I don't remember, that I don't remember.

Nemeth
Q. Okay.

Mosley
A. I couldn't tell you whether he was in or out. Not all deputies were in that...

Nemeth
Q. In that area?

Mosley
A. ...in that general area. None of them were outside or coming from somewhere else, or...

Nemeth
Q. So, you're saying Sloan might have had the door ajar but leaning against the door...

Mosley
A. Right.

Nemeth
Q. ...so to kind of not violate that rule...

Mosley
A. Right.

Nemeth
Q. ...of who you gonna...

Mosley
A. Or, I'm, I'm not sure. I really don't remember whether he was in or out, who was where. I don't remember that.

Nemeth
Q. Okay.

Gjendem
Q. Okay

Mosley
A. I wasn't thinking about that at the time.

Nemeth
Q. How many deputy injury reports did you do that morning, do you recall?

Mosley
A. I don't know. I have no idea. I did, I believe I did just one on Kluth.

Gjendem
Q. On Kluth?

Mosley
A. Right.

Gjendem
Q. Would there have been a inmate injury report on anybody else?

Mosley
A. You mean a deputy injury report or...

Gjendem
Q. Deputy Injury...

Mosley
A. ...or injured employee report? I don't believe anybody complained of any injuries other than Kluth.

Gjendem
Q. Okay.

Mosley
A. I don't remem-, as I recall I don't.

Nemeth
Q. Oh, I'm sorry.

Gjendem
Q. That was the question I had and that was the approval of a supplemental reports in addition to the, in addition to the first report. You don't remember reading the, the supplemental reports from...

Mosley
A. No, I don't.

Nemeth
Q. ...the three deputies?

Mosley
A. No.

Gjendem
Q. Have you had a chance to look at these today?

Mosley
A. Yes, I believe I just, those are the ones I just looked at?

Gjendem
Q. Yeah, yeah, same ones. Are those fairly accurate as to what you remembered the deputies telling you? (Moving of papers).

Nemeth
Let me stop the tape and take a break to save tape, it's 2345.

Gjendem
Q. Okay, we're back on tape, the time right now is 2343. The question I posed to you a little while ago, was after you read the three supplemental reports, and the first report in this, are those reports, those four reports an accurate reflection of what the deputies told you or ran by you that night when you entered the module 4400?

Mosley
A. Yes, as I remember it, yes. As to what they were doing, as to their involvement in the incident, yes.

Gjendem
Q. A little while ago I believe the question was posed, did you feel that they were accurate and...

Mosley
A. Well...

Gjendem
Q. ...thorough?

Mosley
A. Well, you asked me about the 49, and I said...

Gjendem
Q. Uh-huh, the first report.

Nemeth
Q. The first report.

Mosley
A. There was a couple of things on there, as I recall it now, that don't, don't jive to what I remember, but my 45 year old mind

does forget things from time to time, so, that 49, these reports I've never read these reports up until tonight...

Gjendem
Q. Okay.

Mosley
A. ...so these fairly, well, as I recall it, describe what they, what their assistance was, and I...

Gjendem
Q. And [redacted] report says that there were some knees.

Mosley
A. Yes.

Gjendem
Q. Is that correct?

Mosley
A. Yes, he does.

Gjendem
Q. And where were those knee, knees done at?

Mosley
A. To the right side or...

Gjendem
Q. To the thigh?

Mosley
A. ...to the thigh, let's see this report. The knee thrust to the right side.

Gjendem
Q. The right side?

Mosley
A. Yeah, it's the right side.

Gjendem
Q. Okay, and were there any punches by anybody?

Mosley
A. Struck suspect [redacted] by Deputy, [redacted].

Gjendem
Q. Deputy [redacted]?

Mosley
A. [redacted], [redacted]. Three times, says he struck [redacted] two or three times in the back of his right thigh. Didn't say with what.

Gjendem
Q. Okay. Where was the sup-, where was Sloan assigned to 10-27-95, -94.

Mosley
A. I couldn't begin to tell you.

Gjendem
Q. ...ninety four?

Mosley
A. I don't, I don't know. I, he worked several positions, I remember he worked scheduling, watch deputy position, I don't know where he was assigned that night.

Nemeth
Q. Yeah, we have an in-service that shows 4000 prowl, would that jog your memory...

Mosley
A. 4000 prowl.

Nemeth
Q. ...for that night?

Mosley
A. No, it doesn't really, but, because making chow reliefs, people use, sometimes they come from down in the kitchen and make, and you know...

Gjendem
Q. Right.

Mosley
A. I don't remember exactly how those work there. 4000 prowl could have been it yes. And that probably was it.

Gjendem
Q. You would normally document each deputies' actions in your memos, correct?

Mosley
A. Yes.

Gjendem
Q. In your force memos?

Mosley
A. Yes.

Gjendem
Q. Looking at these supervisor's report to use of force, are you familiar with this form?

Mosley
A. Yes.

Gjendem
Q. Okay, and who fills out this form?

Mosley
A. The deputy, at CJ, we usually have the deputies do it, fill out their face sheets with the information.

Gjendem
Q. Who's responsibility is it to see that this form is filled out?

Mosley
A. I believe it's mine.

Gjendem
Q. Okay.

Mosley
A. To see that it is filled out, yes.

Gjendem
Q. The very bottom of this form here that was filled out by Deputy Kluth, is there a supervisor completing the form?

Mosley
A. Yes.

Gjendem
Q. Who's name is in there?

Mosley
A. That's Mosley.

Gjendem
Q. Who's name is in supervisor completing the form blank?

Mosley
A. I'm sorry, that's...

Gjendem
Q. It doesn't say, and this is going to be the back side of this particular form right here, right here, and it says medical treatment, location where it happened at. The next form here is the supervisor report for Sloan, Gary Sloan, and we have a supervisor completing this form on the, on the face sheet?

Mosley
A. Yeah.

Gjendem
Q. Did you fill these forms out?

Mosley
A. I didn't.

Gjendem
Q. Is your handwriting on, on this form anywhere that you see?

Mosley
A. No.

Gjendem
Q. And on this particular form here, this was the one by, done by Deputy [redacted]. It's also filled out, partially filled out, and it says down here, supervisor completing the form, is it filled in?

Gjendem
We're back on tape here, it's 2349.

Nemeth
This is tape 2 of Sergeant Van Mosley, witness on case number 008383.

Gjendem
Q. And this is the one here for Deputy [redacted], or [redacted]? And, once again, the supervisor completing the form?

Mosley
A. Doesn't have one.

Gjendem
Q. Nobody's name?

Mosley
A. Nobody's name.

Gjendem
Q. Were you the supervisor on duty that night?

Mosley
A. Yes, sir.

Gjendem
Q. Were you the supervisor that should have seen that these forms were filled out?

Mosley
A. Yes.

Gjendem
Q. And, is your handwriting on any of these forms that you can see?

Mosley
A. This looks like mine right here. That, I believe is mine. That I believe is mine.

Gjendem
Q. Think you may have just put your name in the wrong place?

Mosley
A. Possibly.

Gjendem
Q. On the form?

Mosley
A. No, it says there's a spot for supervisor's name, rank and employee number and that looks like my handwriting.

Gjendem
Q. Okay.

Mosley
A. You can see the comparison..

Gjendem
Q. Okay.

Mosley
A. ...on two of 'em.

Gjendem
Q. And on these forms anywhere, does it ever indicate what the deputies' actions were in this force incident?

Mosley
A. No.

Gjendem
Q. There was no place for it on this form?

Mosley
A. No, not on that form. Are those the originals, they're copies?

Nemeth
Q. These are photo copies.

Gjendem
Q. Photo copies.

Mosley
A. Okay.

Gjendem
Q. Is there a place on the original form for it?

Mosley
A. There usually is a description of the incident on the back, is that all that was there?

Nemeth
Q. This was attached to your memorandum, your force package memorandum along with Sergeant Duncan's memorandum, and that has been represented to us to be the complete and entire documentation of this event, aside from the police reports, it says. Okay, is there something else, do you remember filling out something else besides this?

Mosley
A. No, I don't.

Nemeth
Q. Just for the tape, 'cause I think it got that.

Mosley
A. I don't recall filling out anything else. Those to me, that appeared to be the standard supervisory report use of force with both the front and back, that I am used to filling out now.

Nemeth
Q. Okay.

Mosley
A. And as I recall at that particular time, it was practice that deputies, everybody got together and filled out their, their forms, and that's what I believe has happened right here. They sit down in the office, they're in the wat-, usually in the watch sergeant's

office, and go out there, and fill out their information on their form.

Nemeth
Q. Okay, just to make sure we've got a...

Mosley
A. To save time.

Nemeth
Q. ...clear record of what you're saying was your memory of, was at the time, the practice was for the deputies to each fill out what's the face sheet of a document that's entitled here, we're holding photo copies of it, Supervisor's Report Use of Force, and below that, it said employee information, and associated employees, and what you're saying, if I understand you correctly, is that it was the practice to have the deputies go ahead and fill out their own information...

Mosley
A. Yes.

Nemeth
Q. ...to themselves, and then that would be joined together with...

Mosley
A. Right.

Nemeth
Q. ...memorandums written by the supervisor, that type of thing?

Mosley
A. That was done on a regular basis, as I recall.

Nemeth
Q. Okay, just to make sure once again, we've got absolutely clear understanding of this on the record. All these documents here that we're looking at, combined with your memorandum, combined with Sergeant Duncan's memorandum, as far as you know, does this comprise the complete force package on this case. Is there anything else that you wrote, that's not here?

Mosley
A. I don't know, and I don't see it, I see my memorandum that I wrote. I see the watch commander's memorandum, and I don't see anything else that I wrote for...

Nemeth
Q. Okay, do you have a memory of writing something else that's not here...

Mosley
A. No.

Nemeth
Q. ...I guess is the question.

Mosley
A. No, no I don't.

Nemeth
Q. Okay. Alright.

Gjendem
Q. A little while ago, you talked about, twice now, the two deputies that were at the main door, 4400. You said they never did go inside the...

Mosley
A. No.

Gjendem
Q. the...

Mosley
A. No.

Gjendem
Q. ...the module.

Mosley
A. No, I remember that fairly clearly.

Gjendem
Q. What did they look like?

Mosley
A. I don't remember, I have no idea, they were deputies, and I didn't really know if I even looked at their faces.

Gjendem
Q. Were they male deputies?

Mosley
A. Male deputies as I recall.

Gjendem
Q. Did it ever cross your mind that they may have been a witness?

Mosley
A. Not at that point, 'cause I remember they arrived at the same time as I did, and when they heard, I believe somebody said it's code four, and they just turned around and went the other way, so I didn't think of interviewing them as a witness at that time, no.

Gjendem
Q. Did Kluth, Sloan, [redacted], or [redacted] ever tell you that anybody else was involved in this, inside...

Mosley
A. No.

Gjendem
Q. ...the module?

Mosley
A. No.

Gjendem
Q. Did Kluth carry OC spray?

Mosley
A. I don't remember.

Gjendem
Q. Do you know if he was trained in OC spray?

Mosley
A. At that point, people were slowly being integrated into, into the program, and I don't remember whether he had it or he didn't. Not everybody was trained in it, so, I don't remember.

Gjendem
Q. This original, this copy of the first report that was written by Deputy Kluth, here it is, okay, written by Deputy Kluth. This thing was assigned to the jail investigation's unit.

Mosley
A. Right.

Gjendem
Q. Do you know if anybody was called from the Jail Investigations Unit to come out and do any kind of crime scene investigation?

Mosley
A. No, I don't know if they were or not, I didn't make any calls. I don't know that that was practice or, at that time, or policy to notify someone from Jail Investigations to come out, or, or what. I don't know, all I know that the jail investigations unit got was...

Gjendem
Q. The assignment on it.

Mosley
A. The assignment on it.

Nemeth
Q. Just for the record, for the benefit of the transcriber, Sergeant Gjendem's been pronouncing it, [redacted], or [redacted], or something, it's [redacted].

Mosley
Q. Right.

Nemeth
Q. And, I've been pronouncing it, [redacted], so, I'm, I'm (inaudible).

Mosley
A. I believe it was [redacted], if I, I...

Nemeth
Q. [redacted].

Mosley
A. That's the way they pronounced it.

Nemeth
Q. Okay, just for the transmitter, that's [redacted]. [redacted] is [redacted], Sloan is S-L-O-A-N, and Kluth is K-L-U-T-H. Two other quick questions, Sergeant Mosley, and that is when we talked briefly a minute ago about about pepper spray or OC spray, were any of the deputies to your knowledge or memory, or looking at these forms, trained or in possession of pepper spray that, that day, that night?

Mosley
A. I couldn't tell you one way or the other, I don't know.

Nemeth
Q. Okay. The other questions is you talked about the three supplemental reports that were prepared by [redacted], Sloan and [redacted]. There's no assignment on those and there's no approving signatures of a supervisor. Is that correct?

Mosley
A. No.

Nemeth
Q. Okay. And your saying that this is the first time you read them was tonight.

Mosley
A. Right.

Nemeth
Q. But in reading them, the statements reflect what you remember each of those deputies telling you about their role in the force incident. Is that right?

Mosley
A. As best I can remember, yes.

Nemeth
Q. But there is no way, aside from your memory, to, to lay those against some other kind of documentation and see that...

Mosley
A. No.

Nemeth
Q. ...they line up.

Mosley
A. No.

Nemeth
Q. Okay. The other question is, is it your practice to approve supplemental reports which describe force personally when you're the sergeant involved in the, in the, reviewing the force? Is that your practice?

Mosley
A. Yes.

Nemeth
Q. Okay.

Mosley
A. It is now.

Nemeth
Q. When...

Mosley
A. Now that I'm here, yeah.

Nemeth
Q. Okay. In your patrol assignment here at Temple Station.

Mosley
A. Yeah, patrol assignment, yes.

Nemeth
Q. Okay. And at, at this time you're saying you did not approve these or see them before tonight.

Mosley
A. No, I didn't not.

Nemeth
Q. Did you brief another sergeant or discuss another sergeant, discuss with another sergeant the fact that these four supplemental reports would be forthcoming and tell him what to expect or see in them?

Mosley
A. I don't believe so. I think the only other person that was involved in anything was the watch commander and I think he, everything as I recall went to him, so...

Nemeth
Q. Sergeant Duncan?

Mosley
A. Sergeant Duncan, yes.

Nemeth
Q. Okay. So you, you think he might have been the one to, to have looked these over?

Mosley
A. I...

Nemeth
Q. If anybody?

Mosley
A. ...don't, I believe he was, if anyone, he would be, he would have been the one because there was no other, there were no other supervisory folks on that we involved in this or that I recall was, was involved, you know.

Nemeth
Q. Okay. Alright. Just for the record, your duties that night were to supervise 4000, did you already have 5000 or some other assignments also?

Mosley
A. 5000.

Nemeth
Q. 4 and 5 was your...

Mosley
A. 4 and 5, yes.

Nemeth
Q. ...duty that night?

Mosley
A. Uh-huh.

Nemeth
Q. Okay. That's all I have. Anything?

Gjendem
Q. That's all I have.

Nemeth
Q. Okay, Sergeant Mosley, is there anything you want to add that you feel we haven't covered or that's relevant, something that we didn't get into or you want to add something that we did get into and didn't explore fully?

Mosley
A. No.

Nemeth
Q. Okay. We'll conclude the interview. The time 005. Okay, time is 000, 0009 hours. We're back on the record after briefly discussing with Sergeant Mosley, he wants to make a brief statement.

Mosley
A. Yes, I'd like to say that at the time, after reviewing all my paperwork here, this was the first major use of force, I believe, that I'd had at Central Jail and as a sergeant, as a supervisor. I'm looking over the, the lack of information on it. I just wanted to make a statement that I believe that, that my investigations have improved since then and, and as, as I can, evidence with subsequent packages; however, like I said the, the lack of detail is the thing that shocks me about this and I, I believe that's all I need to say about that.

Nemeth
Q. Okay. Thank you.

Gjendem
Q. No that's it.

Nemeth
Q. Alright. Off tape, it's 0010 hours.

END OF INTERVIEW

ADMI[illegible]STRATIVE RIGHTS/SWORN WIT[illegible]SSES

NOTE: This admonition is for Department personnel who are being interviewed in the capacity of **SWORN WITNESSES**.

I am JOHN A. NEMETH, SGT. and this is SGT. ERNIE GTENDEM of the Internal Affairs Bureau, which is commanded by Captain ~~Judith A. Lewis.~~ NORMAN L. SMITH

You are about to be questioned as part of an official Los Angeles County Sheriff's Department administrative investigation. You are here as a witness in a matter which concerns another employee. The complainant has not filed a complaint against you, and you are not under investigation as a subject in this matter.

Do you have a Policy and Ethics Chapter of the Manual of Policy and Procedures? Yes [ ] No [X]
Are you familiar with its contents? Yes [X] No [ ]

You are hereby advised that the provisions of the Government Code, generally referred to as the Peace Officers' Bill of Rights, do not apply in this instance. You are specifically reminded that Policy and Ethics Section 3-01/040.70 and 3-01/040.75 require that you make true, full and complete statements. Any refusal to do so may result in your discharge or other punitive action.

NOTE: Sworn personnel being interviewed as witnesses only and who are not under investigation or not personally charged with any violation do not have a right to have a representative present during the interview. If it is determined during the interview that the deputy is likely to be subject to discipline, the interview shall be stopped and the deputy shall be advised that his status has changed to that of a subject.

In the event the witness declines to answer questions on the grounds of self-incrimination, the witness/employee shall be readvised of his administrative rights as though he were a subject. **You are being ordered not to discuss the facts of this case or any of the issues discussed during your interview with anyone other than your designated representative or attorney in this matter.**

Initials [VM]

The above admonition has been explained to me and I understand its contents.

DATE: 10-31-95 FILE NO. 208383

Person Interviewed: [signature] (Signature) VAN E. MOSLEY (Print)

INVESTIGATOR: [signature] (Signature) JOHN A. NEMETH (Print)

SGT. VAN MOSLEY
I.C.I.B. INTERVIEW 1-5-95

WITNESS INTERVIEW

CASE NUMBER 494-00023-2300-444

SGT. VAN MOSLEY

Hamilton
Q. Okay, today is December 5th, correction it's January 5, 1995. We're here at Men's Central Jail. We're going to interview Sergeant Van Mosley, Employee [redacted]. It's now approximately 1810 hours. We're gonna be discussing the incident that occurred in Module 4400 on early mornings of, on the day that, October 27, 1994. Present in the room is Sergeant Ron Bell and myself, Sergeant Eric Hamilton, both from ICIB. This case is being investigated under file #494-00023-2300-444. Sergeant Mosley, were you working on October 27, 1994, here at Men's Central Jail?

Mosley
A. Yes, I was.

Hamilton
Q. Where were you assigned?

Mosley
A. Assigned to the 4000, 5000 floor. The new side as they call it, that evening.

Hamilton
Q. Okay. Did you have a chance to respond to Module 4400?

Mosley
A. Yes.

Hamilton
Q. Okay. Can you tell us why?

Mosley
A. I got a call from my booth officer, Deputy Howard, who said that they had a use of force incident in that module.

Hamilton
Q. Okay. When you went there what happened?

Mosley
A. I went there and, as I walked in saw an inmate lying, I believe it was on his side, with a hobble restraint on. A fairly large pool of blood and deputies, I believe four deputies, as I recall, there at the time, most of them were out of breath and obviously had been in some kind of a physical, doing some kind of a physical activity.

Hamilton
Q. Okay. Who were the deputies?

Mosley
A. There at the time were Deputies Sloan, [redacted], [redacted] and Kluth.

Hamilton
Q. They were the deputies that were involved in the altercation?

Mosley
A. I believe they were, yes.

Hamilton
Q. Okay. Do you remember the inmate's name?

Mosley
A. I don't.

Hamilton
Q. Okay. Do you know what he look liked?

Mosley
A. He was a black inmate. Had, as I recall, he had a beard. Thin. Tall, as I recall. I don't remember, I didn't see him fully extended so I couldn't tell you. He's thin, look more like a, like, what I'd described as a transient type of an inmate.

Hamilton
Q. Who else was present?

Mosley
A. I believe the senior. I can't remember which senior was on that night. Senior, blonde, I can describe him blonde, then a couple of other deputies came in after I did. I can't think who

was there, who else was there.

Hamilton
Q. Was it, possibly Senior Jackson?

Mosley
A. That's who it was. Senior Jackson.

Hamilton
Q. Okay. Was there anybody in the booth when you came in?

Mosley
A. Deputy Howard, as I recall. I don't recall anybody else being there.

Hamilton
Q. Deputy Howard was in the floor booth. That's what I'm talking about, 44.

Mosley
A. On the booth, no. I believe when I walked in, Deputy Sloan had been in the booth. He was standing there with the door kind of, had the door propped.

Hamilton
Q. Okay. What happened after that?

Mosley
A. I asked what happened. They ran it down who was involved. I could tell there had been some kind of a force incident. I asked who was involved and everybody identified themselves. The four deputies I've mentioned, they identified themselves. I started getting, asking who was involved, they said we'll start the paperwork. We called, the clinic had been called. I don't know by who. They came up, I believe it was two nurses, came to that module. Started getting the inmate ready for transport down to the clinic.

Hamilton
Q. Okay.

Mosley
A. And we started getting our, the necessary paperwork faxed.

I remember I had my, I don't know if I had my notebook with me that night or I had a, just a pad and pencil in hand to start writing down the information.

Hamilton

Q. Okay. When you responded, you said that you found out who was involved in the altercation, correct? And that was Deputies Kluth, [redacted], [redacted] and Sloan, correct? Did Sloan actually tell you he was involved in the altercation...

Mosley

A. You know what...

Hamilton

Q. ...or was he just in the booth?

Mosley

A. ...he said he was in the booth and he was the one, I remember him telling me that he'd let, Kluth had said, "Watch the booth while I go down and talk to this guy or pull him out of the cell" or whatever he was going to do. And I remember Sloan saying he was monitoring the booth at the time and when he saw the actual fight start, he was on, either on the phone to the 5000 to the other two deputies upstairs, how they got down there in such a hurry, and he was the one that was, he said he was, I remember him telling me he was pressing the button for the one gate to, you know, where are they? Where are they? Where are they? I don't think he was actually, I don't recall him being actually, whether he said he was actually involved in it or not, but I think he was just, he was monitoring the booth at the time.

Hamilton

Q. Okay. So, you are saying that, basically, Deputy Kluth went to deal with this inmate, got involved in an altercation with the inmate...

Mosley

A. Right.

Hamilton

Q. ...and Deputy Sloan was inside the booth...

Mosley
A. Right.

Hamilton
Q. ...he saw the, the disturbance, was talking to the two deputies upstairs?

Mosley
A. As I recall that's how it happened?

Hamilton
Q. And when you say the two deputies, who are you referring to?

Mosley
A. I think it was [redacted] and [redacted].

Hamilton
Q. Okay, and they responded. He opened the gate by pushing the button?

Mosley
A. Right. I remember him telling me, he said, "Where are they? Where are they?" He kept punching the gate for them to come in the, to assist.

Hamilton
Q. Do you remember their individual account of the incident of them telling you what happened?

Mosley
A. No, I don't. I'd have to review reports.

Hamilton
Q. Okay. You've had a chance to review Deputy Kluth's report, correct?

Mosley
A. Yes, I did.

Hamilton
Q. That night, you had a chance to review it?

Mosley
A. Yes.

Hamilton
Q. Okay. And, do you remember what he said?

Mosley
A. What he said?

Hamilton
Q. Kluth. Kluth. As far as what happened.

Mosley
A. In a nutshell. You just want me to synopsis the whole thing?

Hamilton
Q. Sure.

Mosley
A. He said he had, he was in the control booth. He was the control, the module officer that night. Evidently, this inmate had been given him problems every time he open the cell to put somebody in or take somebody out and I don't remember exactly which cell it was. So, he stepped out and would not step back in again. He said he, when Sloan showed up and I forgot whether he said they were, he was coming down, they were all gonna go down to eat or whatever it was he said. Sloan wanted to, he told Sloan, "Mind the booth. I'm gonna go down and talk to this guy. Pull him off the row." He said he did. He said he wouldn't step back in the cell. I remember he, so I guess he was standing outside on the freeway. Said he went down, popped the road gate, went down, escorted the guy to the sally port area and I believe he said he was gonna handcuff him and when he told him to put his hands behind his back, the, he got him in a headlock at that point or jumped at him or attacked him.

Bell
Q. Who? When you're saying he?

Mosley
A. I'm sorry. The inmate. The inmate. When he told him to put his hands behind his back, he was having problems getting him to comply and the inmate, evidently, spun on Kluth and got him in a

headlock and that's when the fight started.

Bell
Q. And, did he say what else happened?

Mosley
A. He said they went from one side of the, end of the, where they had, where the fight started which is in front of the row gate and which row gate I'm not sure, but said he went across to the other side of, they were struggling, went across to the other side of the sally port area, near the bars, near the showers.

Bell
Q. The opposite row gates?

Mosley
A. I'm sorry.

Bell
Q. The opposite row gates?

Mosley
A. The opposite row gates, right. And he said he had, he was able to get loose and the guy immediately jumped on him again, got him in another headlock. And he said this time when they were travelling towards the bars again, he said that, he decided that was enough and he decided to go to the floor with him and that's when they, he said he went to the floor and he said shortly after that, I believe that's when he told me that the other deputies arrived, they were able to assist him doing whatever, to get the guy under control, the inmate.

Hamilton
Q. Okay. Did he ever tell you that he actually struck the inmate?

Mosley
A. I don't recall. He said he was scratching, trying to do anything he could to get loose. I don't recall whether he told me he actually struck him. Kluth, you mean Deputy Kluth?

Hamilton
Q. Yes.

Mosley
A. He didn't. I don't recall him ever saying he struck him. He was, he said he had him in a choke hold and he was clawing and doing whatever he could to get loose. I don't recall any definite strikes or that he could recall.

Hamilton
Q. Any other deputy tell you about the use of force on this inmate?

Mosley
A. Uh-huh. Deputy [redacted], Deputy [redacted].

Hamilton
Q. What did they say?

Mosley
A. They said they came to assist. I don't recall who said what and what they reported to me, but I remember them saying that when they arrived, they were on the, Kluth and the inmate were on the floor. They, I recall some knees to the side, some knee strikes, some, I believe it was knee strikes, fists. I don't remember exactly what each one told me or what, but they, they did report use of force. As I recall, knees to the ribs. That's what I recall.

Hamilton
Q. Any other deputies report force to you?

Mosley
A. No.

Hamilton
Q. Sloan didn't? Or are you (inaudible)?

Mosley
A. I don't remember whether he did or not. I don't know whether he was out of that booth. As far as I remember, he was in the booth the whole time. I don't know whether he ever came out.

Hamilton
Q. Was the inmate cuffed when you got...

Mosley
A. When I got there?

Hamilton
Q. Yes.

Mosley
A. When I got there. Yes, he was. He was cuffed and had a rip hobble on him.

Hamilton
Q. Do you know who applied those?

Mosley
A. No. I don't remember who applied those?

Hamilton
Q. Okay. Where was he positioned, the inmate, when you got in there?

Mosley
A. He was positioned, I'd say about two feet, two or three feet from the...

Hamilton
Q. You walked in the row...

Mosley
A. To the right hand side...

Hamilton
Q. Which is the Bravo-Denver.

Mosley
A. Baker, Denver right. Next to the shower. The shower is down below or the shower, that day room downstairs.

Hamilton
Q. They both? The showers.

Mosley
A. The showers and day rooms. About two or three feet from the bars, on his side, and I believe he's on his, right side of him,

recall correctly.

Hamilton
Q. What condition was he in?

Mosley
A. He was lying, there was a large amount of blood, I remember that. He was lying, he was conscious at the time, I remember that. Tried to talk to him at that point. He didn't say anything to me. He just kind of laid there. He was conscious but he wasn't speaking and then the nurses got there very shortly after that.

Hamilton
Q. You said there was a, a large pool of blood. Where was he bleeding from?

Mosley
A. I believe from the, the wound over his eye. There was a pretty good split.

Hamilton
Q. You know what eye?

Mosley
A. Left eye, I believe it is.

Hamilton
Q. You notice any other injuries?

Mosley
A. Not at that point. I didn't examine him then. The nurses were gonna take him down to the clinic, so when we got down with Sergeant Duncan and his watch commander, we examined him pretty well.

Hamilton
Q. Okay. What do you mean? What did you do?

Mosley
A. We turned him over. He was still restrained. We kept him restrained as the interview was going on and I remember we turned him from one side to the other. Lifted his shirt up, looking for other signs of other injuries or bruises or whatever we could find

to.

Bell
Q. Did you see any?

Mosley
A. Didn't see any that I recall. I don't remember seeing anything major on his body.

Bell
Q. Did you check out his lower extremities?

Mosley
A. No, did not. Didn't pull his pants down. I remember looking at his legs, his legs part, the legs that were exposed, we didn't look.

Bell
Q. You mean like from the ankles?

Mosley
A. From those ankles, yeah. As I recall, he was barefoot, if I'm not mistaken.

Hamilton
Q. Where did you do this? Where did you examine him?

Mosley
A. In the clinic area.

Hamilton
Q. Okay. You said that you pulled up his shirt?

Mosley
A. Uh-huh.

Hamilton
Q. How high did you pull it up?

Mosley
A. As high as we could get it. To expose as much of his chest as we could exposed without, his hands being behind his back went up, if I recall about nipple high. Rolled him over two or three,

four times I think. We were trying to, look at him pretty good in his up...

Bell
Q. How about his back?

Mosley
A. I'm sorry.

Bell
Q. How about his back?

Mosley
A. Didn't see anything at the time that would...

Bell
Q. Were you able to look at any of his back?

Mosley
A. Yeah, we were able to look at his back.

Bell
Q. How far?

Mosley
A. I'm sorry.

Bell
Q. How far up?

Mosley
A. Probably up to the shoulder blade area. As high as his shirt would go.

Hamilton
Q. Okay.

Mosley
A. And, I remember pulling his collar, he had the V-neck collar. I remember pulling his collar down and looking around to see if there was any other head trauma. Didn't recall seeing any. Anything other than the bad cut over his eye. That's all I recall seeing.

Hamilton
Q. How about anything to his face, his nose, upper forehead, anything?

Mosley
A. Don't remember anything significant that really sticks out in my mind right now...

Bell
Q. No swelling or...

Mosley
A. ...he still was pretty bloody when we were examining him so they were just starting to clean up the, the cut over his eye and he was still, had blood, you know, if there was anything under that I wouldn't have been able to see it but they were cleaning it up. Just in the process of cleaning him off at the time we were talking to him.

Hamilton
Q. Let me back up. Let's go back to the module. When you responded to the module, what was the inmate's demeanor?

Mosley
A. He was calm at the time that I was there.

Hamilton
Q. Was he saying anything?

Mosley
A. No. I recall he was on his side, breathing pretty heavily. But he's, generally, he's just in a, in a calm mood. He wasn't, exci, I tried asking him a couple of questions, what's your name? What, and he was just kind of laying there on his side like, he wasn't doing anything other than laying there.

Bell
Q. Okay. As you're rolling him over and you're examining him, does he appear to be in any pain?

Mosley
A. I remember him saying, well, I remember Sergeant Duncan asking him, "You got a pretty nasty cut over your head," or something like

that. He says, "Yeah, my head hurts pretty bad." He didn't appeared to be in any other pain other than, the only pain I heard him mentioned was, "Yeah, my head hurts." And I assumed that to be the cut over his eye, which is a, quite a pronounced one so.

Bell
Q. Did you hear him groaning? Did he tense up?

Mosley
A. No.

Bell
Q. Anything...

Mosley
A. No.

Bell
Q. ...to you...

Mosley
A. No.

Bell
Q. ...did he appear to be in any pain at all?

Mosley
A. No. Other than when we asked him. He wasn't groaning. He wasn't...

Bell
Q. Just said his head hurts?

Mosley
A. Yeah. He was pretty lucid at the time we examine him and I understood him to be a mental observation patient and he was talking pretty freely when we, we videotaped and did the interview and he didn't mention anything about any other pain except, I remember him saying once, "Yeah, my head hurts."

Bell
Q. On the video, you rolled him over one time, I believe. How many times did you roll him around?

Mosley
A. As I recall, it was like two or three. Rolled him to one side and two or three times, three, four, something like that. It was more than once I believe. We, we, before the video camera got there, I think we rolled him over once, couple times again and then I believe Sergeant Duncan said, "Let's wait till the video camera gets here. We'll examine him on tape." So.

Bell
Q. And you noticed nothing that would indicate to you that this guy was in some type of pain?

Mosley
A. No. He didn't act like he was in pain at all.

Bell
Q. And, did he continue to talk to you during this whole period of time?

Mosley
A. Yes.

Bell
Q. His voice never changed as you were rolling him around?

Mosley
A. No. Not that I recall.

Hamilton
Q. Okay. How long after the incident was over did you arrive in Module 4400?

Mosley
A. That I really don't know. Deputies were still breathing pretty hard, kind of assessing themselves. I remember trying to see where they were hurt. The pool of blood was rather large, so he'd been laying there a good, depending on how fast he was pumping blood that night. I really couldn't give you an estimate on how long it was. I thought at the time when I rolled, when I got it and that it was a fairly fresh incident. They were just, had just finished dressing him up. But like I said, arriving there, the pool of blood was probably two to three feet in diameter at that time so, that I'm recalling. I recall it was a fairly large pool

of blood and, but I know how fast head wounds bleed so I'd thought they'd, they'd just finished because they looked like they just, they didn't look (inaudible), deputies that were involved were all out of breath as I recall and they were, like I said, just standing there seeing who was scratched up, you know, Kluth was telling them, "He got me around the neck and scratched me here." They were just kind of assessing themselves up. I couldn't give you an estimate of how long it'd been since they actually got him under control, but I would est-, probably not more than a minute, two or three, something like that till I got there.

Bell
Q. Did you observe these wounds with Kluth?

Mosley
A. Yes, I did.

Bell
Q. He had scratches on his neck?

Mosley
A. Scratches on his neck as I recall and redness all around his neck.

Bell
Q. You guys have photos?

Mosley
A. I believe we do. I thought we did. I thought we took photos of it that night. No, no photos?

Bell
Q. I don't have them. You may have.

Mosley
A. I...

Bell
Q. You may have.

Mosley
A. ...anything that was taken was gone, you know. I don't have it but I thought we took photos.

Hamilton
Q. Was Kluth sent to the clinic...

Mosley
A. Was he sent to the clinic?

Hamilton
Q. ...to the hospital? Kluth. That you remember?

Mosley
A. I don't remember. I, gosh, no they declined or he didn't.

Unknown voice
Q. Declined.

Mosley
A. I don't remember, sarge.

Hamilton
Q. Did he hurt his arm or anything, his elbows hurt, or was it just a scratch.

Mosley
A. Well, he had general, as I recall he had general pain from just the sore. I don't recall him complaining about anything but his, where he had him around the neck.

Hamilton
Q. How long did it take the guy to be transferred from the module to the clinic?

Mosley
A. I got there, started talking to the deputies. Saw the inmate was still breathing. He was in the right position from being hobbled. I started talking to the deputies, getting names and doing all the preliminary work and I recall the nurses, probably four or five minutes when, by the time they got up there. I'm, I'm, don't.

Bell
Q. Four or five minutes after you or...

Mosley
A. After I got there, they finally rolled in with the gurney, I believe.

Hamilton
Q. Okay. How long did it take them to leave the module to go to the clinic?

Mosley
A. Gosh, I don't know.

Hamilton
Q. An estimate. Five minutes? Ten? Fifteen?

Mosley
A. I remember they stood there and talked about it for a second. How they were gonna do it. Maybe another five minutes before they actually rolled him down there.

Hamilton
Q. Okay. How much longer did it take for you to get down to the clinic to interview him with Sergeant Duncan?

Mosley
A. I remember I went down. Got the deputies' names and they said they'll start on the, their paperwork. I left them. Went down to report it to Sergeant Duncan and maybe, maybe ten minutes before I got down to his office.

Hamilton
Q. Okay.

Mosley
A. I don't know if I had somebody contact him by phone to tell him what happened. Oh, no wait minute. That was the night he was, I think, was he out in the gym? I think he was out in the gym...

Hamilton
Q. Okay.

Mosley
A. ...when he was, when we finally found him. He was out doing stair-stepper in the gym. I think that was the time. I get, I

haven't done all that many of these things but I don't recall having him, having to report to him. I think he was out doing stair-stepper and we, we all walked, the deputies came down with me and we all walked out to get him out of the gym.

Hamilton
Q. So, how long (inaudible) from leaving the 4000 floor (inaudible)?

Mosley
A. By the time Sergeant Duncan got in there, I remember he didn't get dressed or anything, he just came out in his workout gear. Probably 15, 20 minutes maybe before he, before we got down there. Maybe 15 or 20 minutes before we actually got down there to do the interview. I recall going down, did I go down to see how he was doing first? I did on the one the other night. Before Duncan got there I believe it was, you know, about 10 to 15 minutes, 15 to 20 minutes. It's like...

Hamilton
Q. And that was once he left...

Mosley
A. Once he left...

Hamilton
Q. ...the inmate left 4000?

Mosley
A. Right. I would imagine about that, that amount of time.

Hamilton
Q. Okay. When he got there, you guys put him right on tape or did you talk to him for five or ten minutes and then?

Mosley
A. We were waiting for the video camera to get there. I remember we, waiting for the dep-, whoever, which ever deputy and I believe it was an Oriental deputy. Said go get the camera. Who knows how to work it. That kind of thing and he said, "I can do it. I'm video deputy, I'm on one of the extraction teams. I'll go get it." We talked to him for a minute before we got him on tape so, and then I remember, I think Chuck said, "Let's wait til' the video

camera gets here." But we're asking him questions like, where are you hurt, you know, hurt any place else? You got the cut over your eyes and I remember rolling him over a couple of times before we, before the camera got there.

Hamilton
Q. Okay. Were you there when he was transported to LCMC?

Mosley
A. No.

Hamilton
Q. Do you know when he left?

Mosley
A. No, I don't.

Hamilton
Q. Did the inmate tell you what happened?

Mosley
A. Yes, he did.

Hamilton
Q. What did he tell you?

Mosley
A. He said that, he said that the deputies, there were some Bloods in the cell that had identified him as a Crip, Crip, Crip and, Crip, tales from the crypt. Had identified him as a Crip. They were gonna get him and they had started to beat on him when, that's why he was stepping out of his cell. I believe that's what he said and he said the deputies, I remember this distinctly, he said the deputies really had saved his life. By coming down and take him off the row. So, that's, that's what he told us that night.

Hamilton
Q. You have anything, Ron?

Bell
Q. No. I can't think of any.

Hamilton
Q. I have some. Prior to coming on tape, I showed you a copy of a Sheriff's Department complaint report that's, has Deputy David Kluth's name written at the top under, by deputy and, then it says approve, approved by, I assumed that's your signature, correct?

Mosley
A. Yes.

Hamilton
Q. Did you have a chance to review this report the night of the incident?

Mosley
A. Yes, I did.

Hamilton
Q. Okay. Does this appeared to be the report, a copy of the report that Deputy Kluth turned in to you?

Mosley
A. As best I can recall. Yes, it does.

Hamilton
Q. Okay. When you read it that night, did it appear to be an accurate report?

Mosley
A. Yes. From what he told me, yes.

Hamilton
Q. From what he told you?

Mosley
A. Yes.

Hamilton
Q. Okay. And you also received other reports from the other deputies?

Mosley
A. Yes.

Hamilton
Q. And, those are supplemental reports?

Mosley
A. Yes.

Hamilton
Q. And that appeared to be accurate to what they told you what happened?

Mosley
A. Yes.

Hamilton
Q. And that was Deputies [redacted], [redacted], and Sloan, I believe?

Mosley
A. Uh-huh.

Hamilton
Q. Was there any other deputies there... I know I asked you that earlier, but I just wanna make sure.

Mosley
A. I'm trying to rack my brain. Other than the ones who showed up after I got there. I don't recall any other deputies there.

Hamilton
Q. Okay. Any other deputies' names mentioned that was there but left?

Mosley
A. No.

Hamilton
Q. Kluth or any of those guys tell you deputy so and so was here?

Mosley
A. No, they didn't. I think I pretty well remember they didn't mention anybody else who was there that had gone.

Hamilton
Q. Okay. Anything else you can tell us about this incident?

Anybody else we can talk to?

Mosley
A. Have you talked to Deputy Howard? Deputy Howard might, while we were, we were going back and forth about deputies who might have been there and left, so she would be the one that, that would know about who came and who went.

Hamilton
Q. Okay. Yeah, we already talked to her.

Mosley
A. Okay.

Hamilton
Q. Let me show you a photo real quick. Do you recognize this gentleman?

Mosley
A. No (laugh).

Hamilton
Q. Okay. That's fair enough.

Mosley
A. Is this the suspect? I mean the, the inmate?

Hamilton
Q. The complainant, yes.

Mosley
A. Complainant.

Hamilton
Q. That's [redacted] that I'm showing you a photo of. Okay. Also, that night you were the floor supervisor, did you send any deputies down the row to look for any witnesses?

Mosley
A. No. I did not.

Hamilton
Q. You didn't send deputies? No one to look for any witnesses?

Mosley
A. No.

Hamilton
Q. Did you talk to anybody?

Mosley
A. No, I didn't.

Hamilton
Q. Did you notice anybody, any, other?

Mosley
A. I didn't see anybody else with inmate or otherwise, other than the deputies that were there.

Hamilton
Q. Did you ask if there were any witnesses? Asked the deputies or anything?

Mosley
A. I don't recall whether I did or not. I think I was just taking it upon what I saw around there that, that there probably wouldn't have been any other witnesses that time of night with everybody being in bed.

Hamilton
Q. Okay.

Mosley
A. So, I think that's what I assumed.

Hamilton
Q. Okay. Okay.

Mosley
A. How long ago, how long after the, is this at LCMC?

Hamilton
Q. Yeah. I don't know. I didn't take the pictures. I assumed that...

Bell
Q. It was at IAB the next day.

Hamilton
Q. Yeah, somewhere around there.

Mosley
A. The next day? Funny, I thought he had a beard.

Bell
Q. He did.

Mosley
A. He did?

Hamilton
Q. He shaved.

Mosley
A. (Laugh).

Hamilton
Q. See that may be a day or two later. Let me...

Bell
Q. I think it's the next day (inaudible).

Mosley
A. I thought he had, not a bad looking guy.

Bell
Q. Okay, he had a real short beard.

Mosley
A. Yes. That's what I thought. Got the little (inaudible).

Bell
Q. (Inaudible) looking was, describe him.

Mosley
A. Absolutely.

Hamilton
Q. Actually, he had it on the video tape. Okay. Well, we're at the end. The interview is now 18, we'll just say 42 hours.

END OF INTERVIEW

DEP. CESAR ROMERO
IAB INTERVIEW 05-09-96

Nemeth: I'm Sergeant John Nemeth from Sheriff's Internal Affair's Bureau. Today's date is Thursday, May 9, 1996. The time is approximately 1045 hours and I'm present at the IAB office interview room with Deputy Cesar Romero. Deputy Romero, would you state your employee number for the record, please?

Romero: [redacted].

Nemeth: Okay. And spell your last name.

Romero: R-O-M-E-R-O.

Nemeth: Alright. And you're still assigned to Central Jail, are you?

Romero: Yes.

Nemeth: And you work the early morning shift?

Romero: Yes.

Nemeth: And you're being paid overtime to be here today, correct?

Romero: Yes.

Nemeth: Okay. And this is regarding IAB case number 008383 and as we talk prior to going on tape, Deputy Romero, you're here today to review the transcripts of prior statements you've made when you've been interviewed on this case earlier on three separate occasions. Is that true, what we talked about before we went on tape?

Romero: Yes.

Nemeth: Okay. And I have here copies of the transcripts of those prior interviews. Now, do you remember back when I interviewed you the one and only time you and I spoke prior to today was on November 1, 1995, very early in the morning when you were working early mornings at Central Jail. I met with you at about 2 o'clock in the morning. Do you remember that day?

Romero: Yes.

Nemeth: Okay. Do you remember at that time I offered you an opportunity to review the transcripts of your two prior statements that you had given to Sergeant Bell from ICIB. Do you remember that?

Romero: Yes.

Nemeth: Okay. And I did that but it wasn't on tape and you--do you remember what you did? You declined to review the--is that true?

Romero: Yes.

Nemeth: Okay. And the reason was because at that point it wasn't that much time had elapsed between when you had been interviewed by Sergeant Bell and when I was speaking to you. Is that true?

Romero: Yes.

Nemeth: And you then gave--proceeded to give me a statement which we tape recorded. Do you remember that--all that happening?

Romero: Yes.

Nemeth: Okay. And now, I have a transcript of that statement. It's 122 pages long and that's of the statement--the interview you provided to me on November 1, '95, and on that day you--you elected not to have a representative and you spoke with me and my partner Sergeant Gjendem without a rep. Is that true?

Romero: Yes.

Nemeth: Okay. And we advised you you had a right to have a representative but you declined. You wanted to speak to us at that time.

Romero: Yes.

Nemeth: Okay. And today you're doing the same thing. You're willing to speak with me without a representative present?

Romero: Yes.

Nemeth: Okay. And told you prior to going on tape the purpose of coming down here today is I want you to review all of these pages which includes the last interview you and I had on November 1, '95 and that's the transcript that consists of 122 pages and I also want you to read the transcript of an interview you had with Sergeant Hamilton back on January 30, 1995, and that interview transcript consists of 25 pages and then I also want you to read the very first time you were interviewed in this case by Sergeant Hamilton back on December 7, 1994, and I want you to review, there's 26 pages of that transcript. So, I would like you to read each one of these in detail and then we will come back and we'll give you another one of the forms like you signed last time when I

interviewed you which explains your rights and I just basically--I don't want to re--go over everything but I just want ask you about there's some key discrepancies between your statements. So, when you're reading this I'm gonna ask you to pay particular attention to contradictions or apparent contradictions in--in what you told me and what you told Sergeant Hamilton. Okay?

Romero: Okay.

Nemeth: Okay. Any questions or anything at this time, Cesar?

Romero: No.

Nemeth: Okay. We'll conclude this portion of the tape. The time is approximately 1050 hours. Alright. We're back on tape. The time approximately 1345 hours. I'm Sergeant John Nemeth and I'm present in the interview room with Deputy Cesar Romero and Deputy Romero has just for the past several hours read in their entirety the three interview transcripts that I referenced earlier. Is that true Deputy Romero?

Romero: Yes.

Nemeth: Okay. And then prior to beginning this actual reinterview at this point I provided you with a form that says acknowledgement of receipt of prior statements which you signed and wrote you've read each of the transcripts and that's the three transcripts I was talking about earlier and then I gave you a copy of your Administrative Rights as Sworn Subject in this case; a form identical to the one you signed the last time I spoke with you and I see you signed your name and answered yes to the questions. Do you understand that you're a subject and you're still a subject in this case?

Romero: Yes.

Nemeth: Okay. And I'm reinterviewing you about your prior statements; what you have just read. Correct?

Romero: Right.

Nemeth: Okay. And I told you that you have right to a representative and are you waiving that right at this time?

Romero: Yes.

Nemeth: Okay. You're willing to speak to me alone. True?

Romero: Yes.

Nemeth: Okay. And also I told you that you have a right to tape record this interview and you said you didn't to tape record. Is that true?

Romero: Yes.

Nemeth: Okay. I told you that I can provide you with a copy and if there's any discipline to come forth in this case you will be entitled to a complete copy of the case as it pertains to you. Correct?

Romero: Yes.

Nemeth: Okay. Alright. Do you have any questions before we start going--talking? Okay. I told you also prior to going on tape that I plan to ask you--not go over the entire incident but mainly to talk to you about differences in the transcripts you just read because essentially you were interviewed twice by Internal Criminal's Investigator, Sergeant Hamilton and Sergeant Bell and in both those interviews your statement was fairly consistent, but yet when I spoke to you some point later there are some glaring inconsistencies and we've talked about that prior to going on tape and I--and I said that's what we plan to cover in this reinterview. Is that correct?

Romero: Yes.

Nemeth: Okay. Alright, let me ask you a question here. In your interview with Internal Criminal's Investigation you're second interview with them on pages seven and 16 you--you make a couple statements--your own words quote, "You didn't see anyone punch." Referring to the inmate and you also said unquote, "Didn't see anybody hit him." Referring to the inmate. Are those true statements?

Romero: No.

Nemeth: Okay. Because in your IAB interview with me and Sergeant Gjendem on pages 31, 45 and 56 on those pages you describe seeing Deputy Sloan, [redacted], [redacted] and Kluth all hit inmate [redacted]. Is that correct?

Romero: Yes.

Nemeth: Okay. Which one of those statement is true?

Romero: The one--the second one. The one to you.

Nemeth: You told me the truth?

Romero: Yes.

Nemeth: That you did in fact see those deputies--

Romero: --Yes.--

Nemeth: --punching the inmate?

Romero: Yes.

Nemeth: And when we talked to you about it we asked you roughly estimate how many times and you said 10 to 15 times the inmate was struck by each one of those individual deputies for a total of 40 to 60 blows. Is that true?

Romero: It's about right.

Nemeth: Okay. Now, that is a true statement?

Romero: Yes.

Nemeth: And why--why the difference between what you told me and what you told Internal Criminal Investigator when you said, "I didn't see one punch. I didn't see anybody hit him."

Romero: Like I said--like I told you earlier I just, you know, I think when I was talking to them I just--I tightened up. I was nervous. I was intimidated. I didn't, you know, I just, you know, that's basically my reasoning. I just tightened up and--and I was nervous. It had been my first time under investigation and--

Nemeth: --Did you become concerned about what your peer deputies might think if you were to say the truth about the incident?

Romero: Yes, to somewhat, yes.

Nemeth: And what--what did--what thought process or what were you concerned about?

Romero: As far as like what?

Nemeth: If you were to tell the truth about the incident what were you thinking your peer deputies would say or think of you?

Romero: Well, you know, they think--it's like anybody else. I mean, you're a snitch and stuff like that, you know.

Nemeth: Okay. And you said prior to going on tape when we were talking about this you said something about, you know, from early

on you're told or there's a certain belief that circulates about when you're interviewed in a case. What was that?

Romero: Oh, that, you know, you just not to say much. You don't want to say anything. There's just things that basically go around the department.

Nemeth: And is that what you were trying to subscribe to--that practice when Sergeants Bell and Hamilton interviewed you, to not say much and--and kinda of not get into the whole incident?

Romero: Yeah, to some degree. You know, part of it too was that I was new in the department and--like I said, I got nervous. I just tightened up, I guess, all combined into one just, you know.

Nemeth: Okay.

Romero: And said false statements basically.

Nemeth: Okay. You made some false statements to Bell and Hamilton?

Romero: Yes.

Nemeth: Okay. Remember what I told you before we went on tape that it's incumbent and I cannot over emphasize how important it is for you at this time not to make any false statements now that you have to lay every card and tell me all the knowledge you have of this incident at this time. Didn't I say that?

Romero: Yes.

Nemeth: Okay. Are you gonna do that at this point?

Romero: Yes.

Nemeth: Okay. Let me ask you a question. On page 10 of your interview with me you made a statement, "You saw deputies throwing their knee in him." Do you remember that statement?

Romero: No. I just read it but I don't remember it.

Nemeth: Okay. Let's take a look at it. We'll go to page 10 of the IAB interview here and you say--okay. Right here. I saying--well, to get a context--this is your statement. "No, I didn't see anybody grab him or kick him in the groin area, knee him I mean. They--they had their knees on top of their, you know, his--what--his, you know, butt area, you know." And I said, "Who did that?" And then you responded, "Well, they were throwing their knee in

him." Okay? Now, I want to you define what action you saw happening.

Romero: Well, it's--it's an action you see all the time basically when the inmates on the floor you kinda took--gain control of them. You kinda lower you knee onto the inmate's, you know, in this case his--his buttocks region or his, you know, his butt. They just kinda lower their knee. I didn't necessarily mean throwing their knee at him. Just kinda came down on him with his--with their knee.

Nemeth: With some force?

Romero: Not--not a, how would you say? He didn't actually--they didn't actually jump and knee him, you know. Just kinda come down on--on the inmate with their knee.

Nemeth: Okay. These are your words though.

Romero: Right.

Nemeth: You chose the word throwing--

Romero: --Right.--

Nemeth: --as opposed to lowering or any other word you just used now.

Romero: Right.

Nemeth: Now, again, keep in mind, don't subscribe to what you were saying earlier about, you know, worrying about what people think of you or anything else.

Romero: Right.

Nemeth: You need to tell me the absolute truth. Who are you referring to when you say they were throwing their knee in him? Is it one person or more than one person?

Romero: It would actually just--it would be just, I'm drawing a blank here. Sloan. You know, 'cause he--when I held the door for him he walked over and kind of, you know, I shouldn't have used throwing but I should've used, you know, lowered his knee or something else, but like I said, it shows here I said throwing.

Nemeth: Uh-huh. Okay. There's actually another reference to it as well. Actually later on there's another reference to that when you say that--on page three, very early on in your interview when I was

interviewing you last time you say at the middle of your--this long dissertation you're stating, "As I was holding the door there were three deputies on him plus Sloan. After I--I held the door for him he went over and"--and by he you mean Sloan?

Romero: Yes.

Nemeth: "He went over and jumped on top of the inmate." You chose the word jumped.

Romero: Right.

Nemeth: "I recall the inmate being face down on the floor and the four deputies now were--they were on top of him and they were trying to gain control of him. They were hitting him and trying to gain control." Okay. You chose to use the word jumped there. Is that an accurate description of what you saw Sloan do?

Romero: No, not jump. Not necessarily jump.

Nemeth: Okay. Did you see Sloan knee the inmate? Kneeing him.

Romero: I saw him put his knee on him.

Nemeth: No, I don't mean just kneel down on him. I'm talking kneeing him with a, you know, recoiling motion and then a forward knee thrust type thing.

Romero: No.

Nemeth: No, you didn't?

Romero: No, I didn't.

Nemeth: Okay. Okay. When you first relieved Sloan did you see him go up and well, you said, jumped--jumped on the inmate. What exactly did he do? Can you describe it for me?

Romero: When I relieved him he walked over--he went over to the inmate and put his knee on the inmate to kinda gain control of him. Put his knee with his arms also.

Nemeth: Okay. Was the inmate handcuffed when you first arrived in the module?

Romero: No.

Nemeth: Okay. In your prior statement to Internal Criminal's Investigators in numerous locations on pages 3 and 4, pages 13, 14

and 15 in your second interview with ICIB you specifically state that the inmate was in fact handcuffed when you arrived. But, yet, in IAB interview on pages 6, 34 and 57 you say that he was not handcuffed. So, which it is?

Romero: He wasn't handcuffed.

Nemeth: So, is it--when you told ICIB that he was handcuffed can you explain why you said that? Is it the same explanation you just provided for the other--

Romero: --Yeah, basically.

Nemeth: The other thing?

Romero: Yeah.

Nemeth: So, it was false statement when you told ICIB that he was handcuffed?

Romero: Uh-huh.

Nemeth: I'm sorry.

Romero: Yes.

Nemeth: And when you were interviewed by ICIB at that time did you realize you were making a false statement not telling the whole truth?

Romero: Not realized, just kinda, you know, just--I didn't actually sit here and say, "Oh, I'm lying to him." You know, just--I was just basically I don't know. I was talking out of nerves or out of --out of tension.

Nemeth: Okay. In the ICIB interview you also said, "You didn't see any hitting." That's on pages 10, 11 and 19 of the first time you were interviewed by ICIB. But yet, in the--in my interview from IAB on pages 6, 45 and other pages you say you see--in fact four deputies hitting him. Sloan, Kluth, [redacted] and [redacted]. Which one of those statements is true?

Romero: The one to you guys. To--the one to IAB.

Nemeth: Where you saw the inmate--

Romero: --Yes.--

Nemeth: --being hit?

Romero: Yes.

Nemeth: Okay. Why did you tell me the truth and not the ICIB investigators?

Romero: I don't know. I guess I had--by this time I had time to sit down and go over the whole incident and kinda, you know, you know, think it over and I felt comfortable. I didn't, you know, and I mean that's basically the reason.

Nemeth: Okay.

Romero: Just felt comfortable and--

Nemeth: --Alright. Okay. I want to just tell you for a second here. How do you feel now? Do you feel intimidated or threatened right now as we're sitting here talking?

Romero: No.

Nemeth: Okay. I wanted to reinforce to you like we talked last time that in your--in your statement to me last time you--you admitted to essentially knowing the policy about making a notification when you witness force and that you didn't do that in this case. You didn't notify a supervisor. Is that true?

Romero: Yes.

Nemeth: Okay. And then just like I told you then I'll tell you now that basically what you're stating and making these false statements is your admitting to--you're admitting to violating a department policy about making trueful statements during an interview. Do you understand that?

Romero: Making truthful statements like--

Nemeth: --Yeah, you have to make--you're required under department policy to make full, complete and truthful statements when you're interviewed--

Romero: --Yes.--

Nemeth: --by Internal Criminal or Internal Affair's investigators.

Romero: Yes.

Nemeth: And what you're saying now is your basically admitting that at the time you were interviewed on two separate occasions by Sergeants Bell and Hamilton that you didn't tell the whole truth

and you knew you weren't telling the whole truth. Is that true? Is that what you're saying?

Romero: Well, that's--now, that I look back at it, yes, but at the time I wasn't, you know, like at the time I wasn't thinking I'm lying to those guys. That's not my frame of mind, you know, I was just, like I said it just wasn't me there. I just, I was too nervous. I just--it wasn't me basically.

Nemeth: Okay. But what we just got done saying though is at that time you did know that what you were telling him wasn't true. Right? Is that true?

Romero: Yes.

Nemeth: So, you know, I understand you explained your reasons and everything but I'm just reminding you that, you know, right now you need to tell me the whole truth. Okay?

Romero: Right.

Nemeth: Okay. Alright. You wrote an entry in your notebook. Is that true?

Romero: Yes.

Nemeth: About this incident and you wrote something--we referenced it in the first interview. Do you still have that notebook?

Romero: Yes.

Nemeth: Okay. I'm gonna order you to photocopy the page where that entry is made. Okay? You know what entry I'm talking about right? And I want you to send me that photocopy in county mail--you work tonight?

Romero: Yes.

Nemeth: Okay. Do it tonight. Alright? And then I'm gonna order you not to destroy that notebook. Okay? Maintain possession of it. Okay. Who hobbled inmate [redacted] at the end of this incident?

Romero: I would say--I know Deputy Kammer was involved 'cause he was holding on to his legs, but I believe it was either [redacted] or Sloan. I can't--I can't recall who actually did the--did the hobbling itself.

Nemeth: Okay. Did you see Sloan at some point take over restraining the inmate's legs after the inmate was handcuffed?

Romero: What do you mean take over? Just like, grab his legs or?

Nemeth: Yes, right.

Romero: Yes. I--yeah, he--well, he didn't actually take over but he was assisting in grabbing the legs.

Nemeth: Okay. Did you see who handcuffed inmate [redacted]?

Romero: I can't recall. I can't recall.

Nemeth: Okay. Okay. Do you--was Sloan involved in handcuffing inmates [redacted]?

Romero: I couldn't recall.

Nemeth: Don't remember? Okay. Now, when--after the inmate's handcuffed what did you see Sloan do in relation to the inmate?

Romero: After he was handcuffed?

Nemeth: Yes. Something with the legs or something.

Romero: Well, yeah, they were trying to get him hobbled so he was assisting grabbing the legs, bringing them back towards his--towards his butt area. So, yeah, he assisted with the legs. Hobble.

Nemeth: Okay. Do you remember which leg [redacted]--or which leg of inmate [redacted] that Deputy Sloan was holding or restraining or whatever?

Romero: No, I can't remember what, but he was like on the left side of him, so...

Nemeth: On the left side of the inmate?

Romero: Yes.

Nemeth: The inmate was laying face down?

Romero: Yes.

Nemeth: And so would that be the left leg then as you recall? If you think back on the incident.

Romero: Yeah, could be but, I mean, could've assisted with both.

Nemeth: I see.

Romero: I'm not gonna say just the left leg.

Nemeth: Okay. And how was--how was Deputy Sloan holding the leg?

Romero: I can't remember. With his arms, I guess.

Nemeth: Okay. Did he ever raise the leg off of the ground while the leg was, you know, more or less straight out from the inmate?

Romero: No, not that I remember, no.

Nemeth: Okay. Okay. Did you see Sloan kick the inmate at this point or at this time?

Romero: No. No.

Nemeth: Okay. Did you ever see Sloan kick the inmate?

Romero: No.

Nemeth: Is it possible that Sloan kicked the inmate and you didn't see it?

Romero: I guess. Like I said in here, I guess anything's possible, but from what I saw I didn't see him kick him.

Nemeth: No? Okay. How about as far as kneeing him goes?

Romero: No. I don't think it was a knee blow hard enough to--

Nemeth: --Well, I'm not asking you to figure out what caused the injury. I'm just asking you did you see Sloan knee the inmate?

Romero: No.

Nemeth: See, because in here you said earlier to me when I interviewed you that--well, we already talked about a couple of instances where "he threw his knee into him" is one thing you say. Okay. So, when you're saying, "Well, they were throwing their knee into him," on page 10 of the interview that you and I had. Go to page 10 there and look at that for a second. And you say there, "Well, they were throwing their knee into him." Who are you referring to?

Romero: Well, here I was--I mean, I was obviously referring to--to Sloan. I used they for some reason and--

Nemeth: --Is there somebody else that you saw throwing their knee into him besides Sloan?

Romero: No. No. And it wasn't--I shouldn't have used throwing 'cause it's not throwing. It wasn't throwing their knee into them.
Nemeth: Okay. Have you had any contact with Deputy Sloan at all since we last spoke?

Romero: No.

Nemeth: Nothing whatsoever?

Romero: Nothing.

Nemeth: Have you had any contact with Deputy Kluth since we last spoke?

Romero: No.

Nemeth: No?

Romero: No.

Nemeth: How about [redacted]?

Romero: No.

Nemeth: Or [redacted]?

Romero: No.

Nemeth: How about Barrett?

Romero: No.

Nemeth: Broad?

Romero: No.

Nemeth: Kammer?

Romero: No.

Nemeth: Haven't spoke to any of them?

Romero: No. Not about this case, no.

Nemeth: Okay. Not about this case. So, you've had some contact with them but not anything about this?

Romero: Just with Broad and Kammer.

Nemeth: Because they work at Central Jail with you?

Romero: Yes.

Nemeth: You're on early morning shift, right?

Romero: Yes.

Nemeth: And how about Broad and Kammer? What shift are they on?

Romero: They're on day shift.

Nemeth: Okay. Okay. Okay. Say here on page 27 of your interview with me at the top of the page you say, "He was--he was hitting him in the rib area. Hitting him in the back area and they were trying to gain control of him. He put his knee on his back, on his buttocks area, left buttocks, and he was kneeing him. I mean kneed him. Hitting him with his--with his--with his fist." When you say he in this sentence who are you referring to?

Romero: Sloan.

Nemeth: Okay. When we start talking about here again this is your choice of words. These are verbatim transcriptions. You used the terminology right in here. "And he was kneeing him. I mean, kneed him." Changed it from multiple to singular when you say kneed what does that mean?

Romero: Well, that means when he placed--when he put his knee on the inmate--on the inmate's butt, that's means in my mind that's--he kneed him. He put his knee on him. He didn't--

Nemeth: --Okay. What does kneeing mean normally to you? A thrusting motion of the knee like to come up and knee somebody in the groin? Something of that nature. Is that a normal description of what the phraseology kneed means?

Romero: Yeah, that's what it means. Yeah.

Nemeth: Okay. And that's the words you chose to describe what you saw Sloan doing initially right?

Romero: Yes, that's what I said here.

Nemeth: Okay. Did you see Sloan knee him?

Romero: No. Not in that sense, no.

Nemeth: Not in that sense?

Romero: No.

Nemeth: Did you see Sloan kneeing the inmate on the left buttocks area?

Romero: No.

Nemeth: Okay. Do you remember hearing Sloan swear at the inmate during the force incident?

Romero: No.

Nemeth: Is it possible he did and you don't remember?

Romero: It's possible.

Nemeth: You don't remember hearing Sloan swearing though?

Romero: No, I don't.

Nemeth: Okay. When Barrett was--when Barrett was there, Barrett told the inmate--a male white inmate in the baker row shower to turn around. Do you remember saying that in your transcripts? We were talking about that.

Romero: Yes.

Nemeth: Okay. Where was Barrett when he was saying that? Where was he physically standing?

Romero: I would say just--just before you walk from the--from the main door to 44 there's a little hallway and then there's like a little sally port area before you go into the control booth itself and he was standing right--right before you get to the hallway.

Nemeth: Okay. Was Barrett looking at the force incident as it was occurring? As he stood there.

Romero: He was facing that way. I don't know if he was--

Nemeth: --You don't know what he was seeing--

Romero: --Right.--

Nemeth: --But he was--

Romero: --Right.--

Nemeth: --standing in such a position that he could see it clearly?
Romero: I think so.

Nemeth: Okay. So, you're certain Sloan punched the inmate 10 to 15 times. Is that true?

Romero: I would say around that.

Nemeth: Okay. Even though you previously said in your ICIB interview that nobody hit him. Right?

Romero: Uh-huh.

Nemeth: So, you're being truthful in your interview with me the hundred and something page. What is it? (End of Side A)--November 1, 1995. Everything you said in that interview was true?

Romero: Yes.

Nemeth: Despite the fact that you just read that entire interview as well as the two ICIB interviews and you know there's--there's direct contradictions in those. Is that correct?

Romero: Yes.

Nemeth: The things that you told me were true and the things you told ICIB were untrue?

Romero: Yes.

Nemeth: The--what was the inmate's condition when you arrived? Handcuffed or not handcuffed?

Romero: Not.

Nemeth: I'm sorry.

Romero: Not.

Nemeth: Not handcuffed.

Romero: Uh-huh.

Nemeth: And Broad and Kammer, what did they do in this incident?

Romero: Well, I don't think--like I said Kammer pretty sure was holding his legs. Broad I don't think had any--anything to do with this incident. I didn't see him get involved so I--

Nemeth: --Okay. In your previous interview on ICIB you said they just stood there and watched. Was that true? Is that a true statement?

Romero: No, not--not necessarily.

Nemeth: Okay. In your interview with ICIB on page nine. Your first interview way at the back. Let's go there. Page nine. You state here that this is Sergeant Hamilton interviewing you. Hamilton says, "You said that they hobbled his legs. How did they do that, what you saw? What did they do exactly? Did they lift both legs? Did they one leg or how did they?" And you respond, "Well, they lifted both legs back and then they--and Hamilton says, "Both deputies did it or one deputy lifted both legs? And you say, "I believe both of them did it. And Hamilton asks, "And who was that?" And you said, "That would--that would've been [redacted] and Sloan." You remember? See what I'm reading from?

Romero: Yes, page nine.

Nemeth: Is that a true statement?

Romero: Well, not lifted. They didn't lift they just--they pulled I should've said pulled. Pulled their legs back towards his--towards his butt--towards his butt region to hobble, and like I said [redacted], I mean, Sloan had something to do--I know he assisted and [redacted] was on the other side of the inmate.

Nemeth: Okay. So, Sloan was on which leg of the inmate?

Romero: On the left--on the left hand side of the inmate.

Nemeth: And [redacted] was on the right hand side?

Romero: Right.

Nemeth: Okay. Alright. Now, did you see [redacted] kick the inmate at this point?

Romero: No.

Nemeth: Or knee the inmate?

Romero: No.

Nemeth: It's critically important Cesar that you tell the truth. Did you see any deputy kick the inmate in the groin?

Romero: No, I didn't.

Nemeth: Did you see any inmate--I mean, any deputy kick the inmate at all?

Romero: No, I didn't.

Nemeth: You didn't?

Romero: No.

Nemeth: You're certain of that?

Romero: Yes.

Nemeth: As you sit here today this is the God's honest truth this time, right?

Romero: Yes.

Nemeth: You're not saying this to be concerned about telling on somebody or anything like that?

Romero: No.

Nemeth: Okay. See, the reason I have a hard time kinda believing that is number one you've already told me that in the past, you know, when we spoke or when you spoke to Hamilton and Bell from ICIB that you told me that you lied to them about facts of this incident because you were concerned about what deputies would think; that you were a snitch and that, you know, you didn't want to get into all the details of the incident because that's how you've heard when you're interviewed in a departmental investigation that's what you're supposed to do. Is that--

Romero: --Well, that--that wasn't my reasoning at the time. No. My reason at the time was I just--I was just sitting there like I said, I was just--it wasn't me it was--

Nemeth: --It wasn't you? Who was it?

Romero: It was me. It just--I was just a bundle of nerves and I just but I wasn't thinking, "Okay, I got to lie to these guys because it's"--you know, that wasn't my frame of--that wasn't what I was thinking at that time. I just--I just--

Nemeth: --Okay. That may have not been what you were thinking but as you were saying these words were leaving your lips. Did you know them to be the truth or to be untrue?

Romero: Well, now, yeah, they're untrue. Yeah.

Nemeth: Well, if they're untrue now, they're untrue then.

Romero: Yes.

Nemeth: Correct?

Romero: Right.

Nemeth: And as you were saying them did you know that they were untrue as you were saying them? I mean, that's even closer to the incident. They were interviewing you just a few months after it happened.

Romero: Yeah.

Nemeth: In December and it happened in October. So, two months later, less than two months later they're interviewing you in December and then again in January. And so you were telling them things that didn't happen is that true? Or that were different from what did happen.

Romero: Well, they were different. They were different.

Nemeth: Okay. And when you were telling these things that were different you knew they were different. Right?

Romero: Well, yeah, sure, I know that now. Like you said--

Nemeth: --Well, you knew it then, too, right? The incident happened in the past.

Romero: Right.

Nemeth: I'm trying to get to--I'm trying to do is to reinforce in your mind that it's--you have to tell me the absolute truth and the reason I'm having a hard time believing what you're saying about not kicking is we've interviewed other witnesses to this incident and they say very similar to what you say except that the point that [redacted] and Sloan each have a hold of the leg that Sloan kicks the guy in the groin and I'm telling you if you've already told me that you've said things that weren't true before. So, if you're concerned that that's why you don't want to tell me now that that

happened then you need to put that aside and just get down to brass tacks and tell me if that's what you saw happen.

Romero: Well, I know--I mean, if I've already, you know, said what wasn't true to Hamilton, I mean, I would've told you that, but I didn't see that happen. So, I can't sit here and tell you that's what happened. I saw Sloan kick him. That's not what I saw.

Nemeth: Okay. What did you see?

Romero: I told you. They hobbled him and--and, you know,--

Nemeth: --Go ahead.

Romero: Well, you know, they--they hit him to gain restrain him but I never saw him--anybody kick him.

Nemeth: How about kneeing him?

Romero: No.

Nemeth: Okay. We talk about in here you already said that in your past interview. Those are just bad choices of words on your part?

Romero: Pretty much, yes. They put their knee on him but--or Sloan put his knee on him but he didn't knee him. He wasn't thrusting with his knee or anything like that.

Nemeth: Uh-huh. Okay. Okay. When Sloan and [redacted] each had a hold of the legs and they were in the process of trying to hobble this inmate. He's handcuffed now. Is that right?

Romero: Yes.

Nemeth: And Sloan has the left leg and [redacted] has the right leg. Is that accurate?

Romero: Yes.

Nemeth: And did they lift them up off the ground and in--were in the process of bending him forward towards his torso?

Romero: Yes, they just pulled him back actually. I don't recall them lifting him up or, you know, doing anything like that. He just kinda pulled him back--lifted him back.

Nemeth: Uh-huh. Okay. And as that was going on was your attention solely focused at that event or did you look somewhere else or--or what?

Romero: It wasn't solely focused on the legs itself. You know, I was--I had my eye up--up on his head and, you know, the inmate in the shower. So, no--no it wasn't--it wasn't just solely focused on the legs.

Nemeth: If somebody would've kicked him at that point, would you have seen it?

Romero: Yeah, I'm pretty sure I would've.

Nemeth: I think you would've based on what you're saying.

Romero: Yeah.

Nemeth: You're saying nobody kicked him at that point?

Romero: No.

Nemeth: In fact, you're saying nobody ever kicked him that you saw?

Romero: That I saw, no.

Nemeth: Uh-huh. Okay. Do you remember any deputies swearing at the inmate during the incident?

Romero: No.

Nemeth: Saying like, "you fucking asshole" or things like that?

Romero: I can't--I can't recall.

Nemeth: Okay. Now, in your interview you told me that you referred to [redacted], you talked to [redacted] and you told him to report--when he reported the incident and the force he used to tell Sergeant Duncan that you were present. Is that true? Did you do that?

Romero: I told--I told who? No.--No.--No. He called me and told me that--that I was in--it wasn't necessary for me to have to write anything because he spoke to Sergeant Duncan. I never told him, "Tell Sergeant Duncan that."

Nemeth: You didn't tell [redacted] to tell Sergeant Duncan that I was here. Let me know if I need to do anything?

Romero: No. That was--

Nemeth: --You didn't make a statement like that.

Romero: That was--that was to--that was to Kluth when they came in the booth after the incident that I told him--I said, "Hey, if you need anything just let me know."

Nemeth: Okay. You said that to Kluth.

Romero: Yes.

Nemeth: Did you ever tell any of the deputies involved to--to tell the sergeant on your behalf that you were there and if--if you need to write something at the sergeant's request to let you know or anything like that?

Romero: Well, yeah, that would be to Kluth.

Nemeth: Well, what exactly did you say to him?

Romero: Well, I just told him if they needed anything written to let me know. I'd be up on 9,000.

Nemeth: Okay. Okay. I'm gonna take a break and look up reference point on this interview. The time is 1435. Okay. Back on the record. Time is 1510. Took a short break, drink of water and discussed some more issues in the case. Importance of telling the entire truth. What I was asking you about Cesar before we took the break is about you told Deputy Kluth if he needed anything to let you know.

Romero: Yes.

Nemeth: Did you go into any detail with him about to tell the sergeant that you were there?

Romero: No.

Nemeth: No. Okay. And that was Kluth. Now, later I think you said [redacted] called you--

Romero: --Yeah.--

Nemeth: --And what did [redacted] say to you when he called you?

Romero: He said he had to talk to the sergeant, Sergeant Duncan or whoever the floor sergeant was.

Nemeth: Well, do you remember or are you just guessing?

Romero: No, he--

Nemeth: --Did he say a name?

Romero: No, he just told me, "I talked to the Sergeant and he said you didn't, you know," they said don't worry about it and that was the end it.

Nemeth: Okay. Did he--did [redacted] tell you that he told the sergeant you were there as a--as a reliving the booth?

Romero: I didn't talk to him in specifics. He just--that's exactly what he told me. He called me on the phone and told me that. We hung up.

Nemeth: Okay. [redacted] called you on the phone and what did he exactly tell you?

Romero: He just said, "I talked to the sergeant. Don't worry about anything."

Nemeth: The sergeant?

Romero: Yeah. Talked to the sergeant--

Nemeth: --do you know who he was talking about when he said the sergeant?

Romero: I have no idea. I have no idea.

Nemeth: And he says don't worry about anything?

Romero: You don't have to write anything.

Nemeth: Uh-huh. But you were worried about it a little bit? That's why you made you notebook entry, right?

Romero: Well, I make my notebook entry for everything.

Nemeth: Okay.

Romero: I mean, every time I--

Nemeth: --and your notebook entry says something about Sergeant Duncan doesn't it?

Romero: Yeah.

Nemeth: Why does it say Duncan?

Romero: I believe at the time he was a watch sergeant.

Nemeth: Duncan was the watch commander this night.

Romero: Or the watch commander or the watch sergeant, too, probably. (inaudible).

Nemeth: So, you just took his--his name off the inservice?

Romero: Yeah, pretty much, basically. I just, I mean--

Nemeth: --Or are you sure that it wasn't that Deputy [redacted] said that he talked to Sergeant Duncan and that's why you wrote Duncan's name in your notebook?

Romero: No. I--I don't think he told me that. I'm pretty sure he didn't. He just told me talk to sergeant. Don't worry about it. You don't have to write anything.

Nemeth: Okay. And did that indicate to you or did you believe upon hearing that that Deputy [redacted] had told the sergeant that, which would probably indicate Duncan 'cause that's who you report force to, the watch commander. Correct?

Romero: Correct.

Nemeth: Did that indicate to you that he had told Sergeant Duncan about the fact that you were there and saw the incident and that you didn't need to write anything?

Romero: Yes.

Nemeth: But you know that still in all the Department Policy required you personally to report that you were there. Right?

Romero: Yes.

Nemeth: Okay. And you didn't do that, right?

Romero: No.

Nemeth: Alright. Now, just addressing the time we were on break, I reenforced to you about the importance of telling the truth. I've told you about the totality, the circumstances and the fact that essentially up to this point you've already admitted that you've made untrue statements about what you saw in this case on two separate occasions when Internal Criminal investigators interviewed you and that you swear now that you're telling the whole truth. Is that right?

Romero: Yes, sir.

Nemeth: And you did not see anybody kick this inmate?

Romero: No.

Nemeth: Do you have any idea how the inmate sustained the injury in this case?

Romero: I have no idea.

Nemeth: Did you see anything that in your mind could've lead to this injury?

Romero: No.

Nemeth: Okay. And you remember what I told you about we have--there's other inmate witnesses that were interviewed who said that they saw Deputy Sloan kick the inmate after you relieved him in the booth.

Romero: Yes.

Nemeth: And you--you say you didn't see anything?

Romero: I didn't see him kick him.

Nemeth: And you say when we talk about your prior interview where you say Sloan kneed the guy or was kneeing the inmate and then you said I mean, kneed him. Changing it from multiple instances to one. You said that was just a poor choice of words on your part.

Romero: Yes. Placed his knee on his--on his butt. He didn't actually knee him.

Nemeth: Okay. And then when you--we talked about another instance where you used the terminology throwing his knee at him. That was just a bad choice of words, too. Is that right?

Romero: Yes.

Nemeth: Okay. And then another section on page 55 where you say, "I don't--if he did, you know, he didn't--I don't recall him doing like I--like I told--like I told him. I don't remember if he did a knee, you know. But I know he--I remember him placing a knee on top of the inmate. I don't know how he did it." And you say, "I don't know if he jumped up and did a wrestling move or anything like that." Then you later say, "I know he didn't do that. So, I don't know how--how severe he put his knee on the inmate, but I know he didn't jump up and actually, you know, knee the inmate on the buttocks area." So, you make that kind of a rambling statement

on page 55, our first interview, which sounds to me like you don't--you just really don't what happened in terms of this kneeing activity. Is that right?

Romero: No, it's not. I mean, I know what happened and he didn't do any wrestling move on him. He just placed--he put his knee on the--on the inmates butt. That's what happened.

Nemeth: Okay. Okay. Cesar, I am done interviewing you. Is there anything that I haven't asked you that you feel is important? Any other discrepancies in any of the statements you've just read about 180 so pages of transcript, is there anything in those transcripts that you want to correct now that's not true?

Romero: No.

Nemeth: The statements that we've already gone--essentially the interviews you gave to Sergeant Bell and Hamilton at ICIB, those are essentially untrue in terms of the critical questions about was the inmate handcuffed when you first arrived.

Romero: Yes.

Nemeth: The answer was, the inmate was not handcuffed when you first arrived?

Romero: Yes.

Nemeth: And was the inmate or they ask you, "Did you see any deputies hitting the inmate?" And your statement was you didn't see one punch and you made another statement you "didn't see anybody hit him." Was that true?

Romero: No.

Nemeth: And I guess those were the two--probably the two big glaring issues. You also said that on page two of your second ICIB interview Sloan did not hit the inmate but in fact you said he hit him 10 to 15 when I interviewed you last time. Right. Is that true?

Romero: Yeah, he hit him. Definitely hit him.

Nemeth: Definitely hit him. How many times did he definitely hit him?

Romero: Like I said--

Nemeth: --10 to 15?

Romero: 10 to 15.

Nemeth: Did you see him do any kind of knee thrusts?

Romero: No.

Nemeth: Nothing like that?

Romero: No.

Nemeth: Any--in any place on the inmate's body?

Romero: No.

Nemeth: When he was hitting him was he hitting him with his hands? Like we already talked about.

Romero: Fists.

Nemeth: Fists?

Romero: Yes.

Nemeth: Okay. Alright. And you believe that Barrett based on his positioning was able to see the incident. Correct?

Romero: From my point of view, yes.

Nemeth: From where he was standing in the--in the module the incident was happening in front of him. Correct?

Romero: Yes.

Nemeth: Okay. So, if he didn't see it he had to have his eyes closed or something. Right?

Romero: I don't know. I mean, if he didn't see it--I don't know why he wouldn't have.

Nemeth: Right. Okay. Alright. Anything else you want to add at this point?

Romero: No. Nothing.

Nemeth: Okay. We'll conclude the interview and the time is 1520 hours approximately.

END OF INTERVIEW

ADMINISTRATIVE RIGHTS/SWORN SUBJECTS

I am **Sergeant John Nemeth** and this is ~~Sergeant~~ of the Internal Affairs Bureau, which is commanded by Captain Norman L. Smith.

You are about to be questioned as part of an official Los Angeles County Sheriff's Department administrative investigation.

Do you have a Policy and Ethics Chapter of the Manual of Policy and Procedures? Yes [✓] No [ ]
Are you familiar with its contents? Yes [✓] No [ ]

You are specifically reminded that Policy and Ethics Section 3-01/040.70 requires that you make truthful statements and Section 3-01/040.75 requires that you make full and complete statements.

This investigation concerns: (Explain allegations /basic reason for investigation.) **Events surrounding the use of force on Inmate [redacted] on October 27, 1994,** & MAKING FALSE STATEMENTS.

If this were a criminal investigation any statements you made could be used against you in a court of law. Since this is an administrative investigation, neither your statements nor any information or evidence which is gained by such statements can be used against you in any subsequent criminal proceeding. However, these statements may be used against you in subsequent administrative actions.

You are being ordered to answer questions specifically related to the performance of your official duties and/or your conduct as related to your employment with the Department.

You have the right to remain silent, and you have the right to the presence and assistance of counsel. You are hereby notified that although you have the right to remain silent, failure to answer questions directly related to this administrative investigation may result in your discharge or other punitive action.

You have the right to have a representative of your choice, who is not involved in this investigation, present with you during your interviews. You may tape record this interview if you wish.

The above admonition has been explained to me and I understand its contents.

DATE: **May 9, 1996** FILE NO. **I.A.B. 008383**

SUBJECT: [signature] CESAR ROMERO [redacted]
(Signature) (Print)

INVESTIGATOR: [signature] JOHN NEMETH
(Signature) (Print)

Acknowledgement of Receipt of Prior Statements

I, Deputy Cesar Romero [redacted], acknowledge receipt of three transcripts of my prior interviews regarding I.A.B. case #008383.

Interview with Sergeants Eric Hamilton and Ron Bell on 12-7-94, 26 pages.

Interview with Sergeants Eric Hamilton and Ron Bell on 1-30-95, 25 pages.

Interview with Sergeants John Nemeth and Ernie Gjendem on 11-1-95.

I HAVE ALSO READ EACH OF THE TRANSCRIPTS

[signature] 05-09-96

Deputy Cesar Romero 05-09-96

DEP. CESAR ROMERO
I.A.B. INTERVIEW 11-1-95

SUBJECT INTERVIEW

CASE NUMBER IAB 008383

CESAR ROMERO

Nemeth
Q. Today's date is November 1, 1995. Time is 0150 hours. I'm Sergeant John Nemeth from Sheriff's Internal Affairs. Along with me is Sergeant Gjendem from Internal Affairs. We're present at the Men's Central Jail Watch Commander's Office interviewing Subject Deputy Cesar Romero. Deputy Romero, for the record, can you state your employee number for the tape.

Romero
A. [redacted]

Nemeth
Q. Okay. And this is regarding IAB case number 008383. Deputy Romero, prior to going on tape, I explained to you that you are a subject in this case. Is that correct?

Romero
A. Yes.

Nemeth
Q. Okay. And I explained to you and showed you your Administrative Rights as a Sworn Subject in this case. Is that correct?

Romero
A. Yes.

Nemeth
Q. Okay. I see you answered the questions on the form and signed your name and printed your employee number. I also explained to you that you have the right to a representative. Is that correct?

Romero
A. Yes.

Nemeth
Q. Okay. Are you choosing to speak with us at this point without representative?

Romero
A. Yes.

Nemeth
Q. Okay. I also told you, prior to going on tape, that we are here investigating a force incident that occurred on October 27, 1994, in Module 4400, involving an inmate, [redacted]. Are you familiar with that incident?

Romero
A. Yes.

Nemeth
Q. Okay. I want you to, as we talked before going on the record, I explained to you the importance of telling the truth. I explained to you that, although you're technically a subject in this case, your role is very minor at this point. Is that correct?

Romero
A. Yes.

Nemeth
Q. Okay. Do you understand that you are under orders to tell the full, complete truth about what happened that night?

Romero
A. Yes.

Nemeth
Q. Okay. I want you to start from when you first learned of this event and tell me in sequential order what happened and what you saw.

Romero
A. Okay. As I recall, they put it out over the loudspeaker on our floor, I didn't, I don't carry a radio, so I assumed it came out over the radio, and myself and three other deputies ran down the escalators and when we got down to 4000, we got kind of directed by the booth person as to where it was, so we ran in to

4400. As we ran in through the module door there, I, I don't remember what, in what order we went in, but I, I, when I went in, I, I kind of remember, I think I was first. As I went in, I looked down to my right and saw the inmate on the floor with three, three deputies on top of him. I saw Deputy Sloan holding the, the booth door open. He had, he was standing by the door. He was holding it open. So since, the way, the way it kind of, we, we run things is usually if a person has a handle or is there in a situation, you know, my thought was, since he was already there, he kind of knew what was going on, so I went and held the door. He asked me, "Hold the door for me." So I'm not going to tell him, no. So I went over, held the door for him, and he went and got involved in the incident. As I was holding the door, there was three deputies on him, plus Sloan. After I, I held the door for him, he went over and, and jumped on top of the inmate. I recall the inmate being face down on the floor and the four deputies now were, they were on top of him and they were trying to gain control on him. They were hitting him, trying to gain control. I, I can't remember what deputy or who, who was trying to, but I, I recall there was deputies trying to grab him and, and, you know, he was flopping around, moving around, and deputies were hitting him, and finally they grabbed him and, and I, I'd assumed they controlled him, and they, they handcuffed him. After they cuffed him, I, I, I can't remember if they hobbled him or, I think they hobbled him and then they turned him over to his side. And then when they turned him over to his side, that's when I noticed, you know, all the blood on the floor and, and all the other stuff. After they turned him over on his side, he was sitting there and then that was, you know, that was pretty much the end of it. Everybody came into the booth and, you know, the, that was pretty much the end of the, the, the, the force incident, the force part of the incident.

Nemeth
Q. Alright. Do you remember before we went on tape, I explained to you that you're under orders to give full, complete, and truthful statements?

Romero
A. Yes.

Nemeth
Q. Okay. I want you to understand that, and remember how we, I talked to you about, you made a decision that day that, early that

morning, to not get involved in this incident with the inmate. Is that right?

Romero
A. Yes.

Nemeth
Q. You made a decision to go and let Sloan get involved. Is that right?

Romero
A. Yes.

Nemeth
Q. At his request.

Romero
A. Yes.

Nemeth
Q. Now you remember that I told you that I believe that was a good decision on your part not to get personally involved in the use of force in the, in what was happening to that inmate. Do you remember me saying that to you?

Romero
A. Yes.

Nemeth
Q. Okay. Do you remember me telling you, and we're on the record now...

Romero
A. Right.

Nemeth
Q. ...that that decision, although I believe it was good, if you don't follow through at this point, this is your opportunity to tell us what you saw. And if you don't tell us everything that you saw, then that is going to be held against you and you could receive discipline up to and including your discharge from the Sheriff's Department. Do you understand that?

Romero
A. Yes.

Nemeth
Q. Okay. I want you to realize that you can tell me everything that happened, everything that happened. I don't want you to skip anything and I don't want you to glaze over anything, okay? I want you to tell me a little bit more about that force event that, you, you know, the parts that you kind of went quickly through.

Romero
A. I've been, I mean, I can't, I can't sit here and tell you blow by blow what, what happened, but like I've said before and, and I'll say it again, if, had I been involved in that incident, what I saw the deputies doing, as far as hitting him in the ribs and, and in the back, what I saw them doing, I would have done myself, had I been involved in that incident. That's what I would have done. That's, I mean, that's what I told them. I, I've, you know, I, I didn't see anything. I mean, I can't sit here tell you blow by blow I saw deputy so and so hit somebody, you know, hit him here. I mean, I remember all four of the deputies hitting him. They're hitting him in the ribs, hitting him in the back. They were hitting him, but I can't sit here and tell you blow by blow what, what exactly happened. I, I'm, it's, it's impossible. There's no way I can...

Nemeth
Q. That's not what I'm looking for, okay? What I'm looking for is the kicking. I'm looking specifically for the kicking. What, and I, I'm looking for specifically what you saw Sloan do when you relieved him in the booth. And I want you to tell me everything.

Romero
A. Right. Well, like I said, when I relieved him, I, he went to, he went, I can't remember who was the deputy on the left-hand side of the inmate, but he went over towards him and he kneeled, he put his knee on his back and started hitting him and, and they...

Nemeth
Q. This is Sloan you're talking about now.

Romero
A. Right. Started hitting him and, and all the other deputies were hitting him too, trying to gain control.

Nemeth
Q. And the inmate, was, was he handcuffed at this point?

Romero
A. No, no. This is when he went over as they tried to gain control of him.

Nemeth
Q. So he wasn't handcuffed when you first got there?

Romero
A. No, he wasn't handcuffed. He was...

Nemeth
Q. You're certain of that?

Romero
A. Yeah, pretty certain. I mean, as far as I remember, I, I'm pretty sure he was, 'cause I can remember him struggling around. They were trying to gain control and they were hitting him and Sloan was hitting him and...

Nemeth
Q. Okay. He get's handcuffed then, right?

Romero
A. Right.

Nemeth
Q. Tell me about what happens after he gets handcuffed.

Romero
A. After he gets handcuffed, then that's, that's when, I, I'm pretty sure that's when they, they started hobbling him. I mean, yeah, that's, I mean, that's...

Nemeth
Q. Now, you're saying you're pretty sure. I want you, I know that you did not forget this incident. Did you?

Romero
A. No, I didn't forget all of it, but I don't remember all the specifics about it. I don't remember the certain order it went. I mean...

Nemeth
Q. Okay. You need to, you need to work on your memory and really think back very carefully. Remember I told you about, you know, this case and the potential consequences of this case?

Romero
A. Right.

Nemeth
Q. Okay. I need you to think very carefully and remember everything about this contact. What happened, what did Sloan do after the inmate was handcuffed?

Romero
A. I can't, I can't, I mean, I, I mean, I know, I, I, you guys want, I, I can't say he, you guys saying that he kicked him. I don't, I didn't never see a kick. You told me...

Nemeth
Q. I didn't say he kicked him.

Romero
A. You said, I mean, you told me, "Oh, a kick," you know, "What about the kick?" You know, I can't, I never saw it. I mean, I didn't, I didn't see, okay, all I, all I know is they cuffed him and they started hobbling him and, you know, and that's pretty much it. I mean, that's, I mean, I can't, I can't...

Nemeth
Q. That's not pretty much it.

Romero
A. Well, I can't, I can't sit here and tell you blow by blow what happened or I can't sit here and, and, and I can't, I can't, I can't sit here and tell you blow by blow all the specifics of what happened. I mean, I don't, I didn't memorize the incident. Everything happened (snaps finger) in a, pretty much in the snap of a finger. I mean, I can't, you know, I didn't, I didn't...

Nemeth
Q. In the snap of a finger?

Romero
A. Well, I didn't sit there and, and, and watch the incident and say, okay, let me see who's hitting who, who, who's doing what. That's not realistic. That's not what happens in a incident like that. That's not what I was doing. I was sitting there holding the door, making sure that no deputy was being hurt. I mean, I, I wasn't there watching, making sure that, you know, okay, I got to make sure that so and so isn't doing this, so and so, that's not realistic. That's not what you do in a scene like that. You see the whole thing and, and that's what I'm telling you is what I saw. That's, that's what I saw. They cuffed him. They hobbled him. And, and then, then when they turned him over, then, then I saw the blood. That's what I remember the most, is seeing all the blood on the floor.

Nemeth
Q. Okay. Let me ask you just to make sure we're real clear on this. Your, did you see anybody kick him?

Romero
A. No.

Nemeth
Q. You didn't see anybody kick the inmate?

Romero
A. I didn't see no kicks.

Nemeth
Q. No kicks by anybody.

Romero
A. No.

Nemeth
Q. Are you certain of that?

Romero
A. Positive.

Nemeth
Q. Okay. Were you watching the entire time?

Romero
A. Pretty much, right from where I held the door.

Nemeth
Q. Okay. Is it possible somebody kicked at some point when you weren't watching?

Romero
A. I guess that can, that can always be possible. I mean, I don't know.

Nemeth
Q. So it's possible somebody kicked him when you there and you didn't see it?

Romero
A. I guess. I mean, it, it could be possible if I'm not, I mean, I don't know.

Nemeth
Q. Well, did, did you see anybody grab for the inmate's testicle area?

Romero
A. No. You mean with his hand?

Nemeth
Q. With his hand or a punch or knee? Nothing?

Romero
A. No.

Nemeth
Q. Okay. Do you know what happened to the inmate? Do you know what his injuries were?

Romero
A. Well, I, I mean, I heard, yeah.

Nemeth
Q. And what did you hear?

Romero
A. Well, I heard he had a cracked testicle or something like that.

Nemeth
Q. Well, it wasn't cracked. It was pulverized to a state where it couldn't be repaired. Surgically had to be removed. And the expert medical testimony is that this was a brand new, fresh injury. Not some old, lingering thing that happened way back. So you're telling me you're there in the force incident and you don't see anybody go anywhere near his testicles. You don't see anybody kick him. You don't see anybody knee him, punch him, or reach their hand in his...

Romero
A. Well, I...

Nemeth
Q. ...groin, genital area?

Romero
A. No, I didn't see anybody grab him or kick in the groin area. Knee him, I mean, they, they had their knees on top of their, you know, his, what, his, you know, butt area, you know.

Nemeth
Q. Who, who did that?

Romero
A. Well, they were throwing their knee in him.

Nemeth
Q. Who, who was that?

Romero
A. I can't remember who was the, I can't remember who was the deputy on his right-hand side, but I know on his left-hand side, as soon as I relieved Sloan, he went over towards the inmate and kind of put his knee on his butt area, you now, to, to hold him down. I can't remember who the, the deputy on the other side was.

Nemeth
Q. Okay. Which side of the inmate was Sloan on? The inmate's face down on the ground at this point?

Romero
A. Left-hand side.

Nemeth
Q. He's on the inmate's left-hand side?

Romero
A. Yes.

Nemeth
Q. And where was he kneeling?

Romero
A. On his butt area.

Nemeth
Q. You're motioning to your left buttock?

Romero
A. Yeah. I mean, that's were he was, that's where he pretty much had his knee, that I...

Nemeth
Q. Okay.

Romero
A. ...can remember.

Nemeth
Q. Uh-huh.

Romero
A. But, like I said, I didn't see any kicks or anybody grab his testicle area, nothing like that.

Nemeth
Q. Okay. At some point when, after he's handcuffed, did you see somebody move his legs?

Romero
A. Move his legs? No, I mean, just like when they hobbled him.

Nemeth
Q. Uh-huh. How did they do that?

Romero
A. I can't remember what deputy was grabbing his, his arm, his legs. I, it could have been Kammer. I can't remember which deputy, but they had his legs and, I guess, they lifted 'em up and then that's when they hobbled him. They put 'em towards the cuffs. But there was a couple...

Nemeth
Q. Who, who...

Romero
A. There was a couple deputies grabbing his lets.

Nemeth
Q. Okay. Who were they? You said Kammer...

Romero
A. Kammer and it could have been Broad, maybe, because he came down with us. And, I think, they might have been the two that were grabbing and I, I can't remember. So I know Kammer probably was one of them and, I think, Broad. I'm not sure, though.

Nemeth
Q. And then what happened?

Romero
A. Oh, they lifted his legs up and then, like I said, they hobbled him and then they turned him over and that's when I saw all the blood.

Nemeth
Q. Okay. What, how did Kammer and Broad lift the legs?

Romero
A. I can't remember if they had him sort of like in a, no, they, they, I, I can't remember if they had him in a choke hold or they just, I know they lifted him up, like bent him up from the knees.

Like, so his knees ended up bending towards his butt area, or his buttocks area. So they just basically flexed his knees back towards his butt.

Nemeth
Q. Okay. You said you can't remember if they had him in a choke hold.

Romero
A. Right.

Nemeth
Q. And then you were motioning your arm like a head lock...

Romero
A. Right.

Nemeth
Q. ...or something. They had his legs in that position, or his neck? Because you said...

Romero
A. No, no, no. His legs, his legs. When they brought 'em back this way, towards his buttocks area.

Nemeth
Q. Okay. Do, who was on the left side of the inmate at this point?

Romero
A. Well, Sloan and, I can't remember who was a, above him. I, I believe it was Kluth. I'm not positive though.

Nemeth
Q. Okay. And where was Kluth then on the left side?

Romero
A. Up on the upper torso part up in the upper, upper back area.

Nemeth
Q. Upper back?

Romero
A. Right.

Nemeth
Q. From his shoulder forward or from his should back?

Romero
A. From his shoulder, from his shoulder back.

Nemeth
Q. So between his...

Romero
A. From his shoulder...

Nemeth
Q. ...shoulder...

Romero
A. ...and his...

Nemeth
Q. ...and his...

Romero
A. ...mid-back.

Nemeth
Q. ...mid-back?

Romero
A. Right. And then Sloan...

Nemeth
Q. Was anybody at his head, on the left side?

Romero
A. No, not, nope.

Nemeth
Q. Okay. So you got Kluth up there and then who's next? Going towards his feet?

Romero
A. It's Kluth, Sloan, and I can't remember who was on his left-hand side of his legs. I can't remember, maybe Kammer. I can't remember for sure though. But it was, I know it's, it was, I'm not positive, but I know Sloan was in the middle and I think it was Kluth up on top and then Sloan and then...

Nemeth
Q. And then Kammer?

Romero
A. Kammer.

Nemeth
Q. Or Broad, or...

Romero
A. Or Broad, right. But I know one of those two were holding his legs.

Nemeth
Q. Okay. You're positive it was those two guys holding the legs, Kammer and Broad?

Romero
A. Yeah, I'm pretty sure it was them.

Nemeth
Q. Okay. And, but you just don't know which side? Who was on...

Romero
A. Right (inaudible)...

Nemeth
Q. ...which side?

Romero
A. Well, I don't know if both of them were or just one of them, but I'm pretty sure that one of those two was, were holding his legs, if not both.

Nemeth
Q. Well, you know, you just said a minute ago it was one on each side.

Romero
A. Well, I mean, I can't remember, like I said, I can't remember if they, one, each one of them had a leg and they brought it back, or one guy had both legs. I can't, I mean, but, I can't remember if they choke hold his legs back towards his buttocks area or not, but I'm pretty sure Kammer was holding his legs. That's right. I know Kammer was for sure, pretty much. I'm pretty sure about Kammer. I, I'm not positive about Broad...

Nemeth
Q. Okay. Alright, alright. Don't worry about that. So you got, you got Kluth up at the left-hand shoulder to mid-back area. Then you got Sloan. Where, where exactly is Sloan then?

Romero
A. I'd say from his buttocks area up to his mid-back area.

Nemeth
Q. Okay. And then Kammer?

Romero
A. Then Kammer?

Nemeth
Q. Where is Kammer exactly?

Romero
A. He's on his legs, but I can't, I can't remember if he had a hold of his left leg or, I can't, I, I don't think he was on his left-hand side. Maybe he was like directly behind the inmate, grabbing the legs or something. But I, I, 'cause the leg part was almost directly, I'd say about maybe two feet away from me, his leg part. So I, I don't remember seeing Kammer right in front of me, so I think Kammer was off to the back of him.

Nemeth
Q. And when you're saying, you're referring to your position, where...

Romero
A. Right.

Nemeth
Q. ...exactly were you?

Romero
A. I was holding the, the booth door open.

Nemeth
Q. The Module 4400...

Romero
A. Right.

Nemeth
Q. ...officer's booth door...

Romero
A. Right.

Nemeth
Q. ...open. And that door opens outward. Is that right?

Romero
A. Yes.

Nemeth
Q. And you were standing, leaning against the door, or how was...

Romero
A. I was just, I was just holding the door open.

Nemeth
Q. Holding, you motioned out ...

Romero
A. My arm-. My arm...

Nemeth
Q. ...with your left arm.

Romero
A. My left arm was out extended.

Nemeth
Q. Okay. And so then your body was further away from the door?

Romero
A. Right, right.

Nemeth
Q. So you were as far out as you could get. Is that correct then?

Romero
A. As far out as what? You mean to the right? Or, or as far...

Nemeth
Q. Well...

Romero
A. ...out to the...

Nemeth
Q. I mean, you...

Romero
A. I was kind of holding it and I was kind of angled out, out away from the door.

Nemeth
Q. Away from the door.

Romero
A. Right.

Nemeth
Q. Towards the module main door?

Romero
A. Right, right.

Nemeth
Q. Towards the one gate door?

Romero
A. Right.

Nemeth
Q. So in other words, you're about as far out towards the one gate as you could get. Is that right? If you're holding your left arm with the, the door with your left arm and it's extended out and you're standing as far as you can away from the booth area. Is that right? The 4400 booth area?

Romero
A. Yeah, I, I guess, I, like, it's like that could be possible. I'm, I'm really not sure...

Nemeth
Q. Well, I'm just trying to get a mental picture of where you're standing, you're not, you're not in the control booth then. Is that right?

Romero
A. No, I'm not in the control booth, no.

Nemeth
Q. The control booth door is open and it swings out.

Romero
A. Right.

Nemeth
Q. You've hold, you're holding with your left arm.

Romero
A. Right.

Nemeth
Q. And your left arm is extended out, like mine is right here?

Romero
A. (inaudible)...

Nemeth
Q. Is that right, or no?

Romero
A. Well, I mean, yeah, like that could be. I mean, I'm...

Nemeth
Q. Well, I'm trying to get, I don't know. I wasn't there. I'm trying to get your...

Romero
A. Yeah, I mean, that...

Nemeth
Q. ...memory of it.

Romero
A. I know, I mean, I don't remember, if I, it could have been like this. I could have had my arms bent. I could've...

Nemeth
Q. Okay.

Romero
A. ...you know...

Nemeth
Q. Alright. You had your arm holding the door...

Romero
A. Right, I was holding the door.

Nemeth
Q. ...and then you were standing (inaudible)...

Romero
A. Away from the door.

Nemeth
Q. Away from the door. Okay. And then you say it was about his, inmate's left leg was about two feet from you?

Romero
A. I was, that was the, his, the inmate's closest part to me was his legs. And it wasn't that far away from me. And I don't remember, I, I can't remember Kammer's, right of front of me, kneeling down, holding his legs. Maybe he was off to the side a little bit. I don't...

Nemeth
Q. Uh-huh.

Romero
A. ...I don't remember the specifics, but, but I'm, like I said, I'm pretty sure Kammer was one of the guys holding...

Nemeth
Q. Okay.

Romero
A. ...his legs.

Nemeth
Q. Alright. Now, who's on the right-side of the inmate?

Romero
A. I believe it was, I don't remember the order, but it was [redacted], I think it was [redacted] on his upper right part of his body, from the shoulder to mid-back, and ah...Was it [redacted]? [redacted] from his mid-back to his, you know, lower buttocks area, his right buttocks area. And I can't remember if Broad was on that side or not. I'm, I don't remember. But I'm, I'm kind of sure he was. He was holding a leg, but...

Nemeth
Q. Okay. Broad was holding his right leg, Kammer's holding his left leg, and take it from there.

Romero
A. Okay, after, after what? After he was handcuffed?

Nemeth
Q. Uh-huh, yes.

Romero
A. Well, then they, they lifted up his legs.

Nemeth
Q. Now, how did they lift up his legs? The legs were on the ground to begin with...

Romero
A. Right.

Nemeth
Q. ...on the floor?

Romero
A. Right. They bent...

Nemeth
Q. Were they...

Romero
A. ...bent his knees back towards his buttocks area, so his heels were towards his butt area.

Nemeth
Q. Did they lift his feet...

Romero
A. They didn't lift his knees...

Nemeth
Q. ...off the ground at some point to get it in that position? I mean, you would've had to have, correct?

Romero
A. Yeah, his feet, yeah.

Nemeth
Q. Okay. And were his legs spread open like a, a "V" or, you know, positioning? Were they opened up?

Romero
A. I, when they brought him up, it, they might have been opened up, but eventually they would have had to close 'em to hobble him.

Nemeth
Q. Right.

Romero
A. I mean, so...

Nemeth
Q. Right. Okay.

Romero
A. Yeah, it's possible when they brought him up, it, it could've been, could have been spread open...

Nemeth
Q. Do you remember seeing that?

Romero
A. Well, no. But, I mean...

Nemeth
Q. Well, I, you know, I want you to tell me what you remember, But it's very important that you remember and tell me what you remember.

Romero
A. Well, I remember bringing, I, they brought his legs back towards his buttocks area, but I can't tell you if they were open or not. I, I don't remember that.

Nemeth
Q. Were you looking at that point?

Romero
A. At the, yeah, at the incident. I...

Nemeth
Q. Yeah, you were looking at the incident...

Romero
A. Sure.

Nemeth
Q. ...weren't' you?

Romero
A. Sure.

Nemeth
Q. In fact it was happening a couple feet in front of you, right?

Romero
A. Right.

Nemeth
Q. Very critical that you think about this. What did you see happen as the legs were about to be put in a hobble position?

Romero
A. As far as...

Nemeth
Q. As far as what happened next. Who, who, you know.

Romero
A. Well, I mean, they, they had his legs. They brought 'em back towards his buttocks area and, I don't remember who had the hobble on him or who hobbled him, but, I mean, they brought his legs back towards his buttocks area...

Nemeth
Q. Okay. That, that, that did happen.

Romero
A. Right.

Nemeth
Q. But there's something that happened between the two. We, see, you're not the first person we've talked to. We've talked to a lot of other people, okay? We have a certain amount of physical evidence, okay? The inmate is missing a testicle now, okay? We have a lot of evidence that indicates something happened. You were there. This was happening two feet in front of you, okay?

Romero
A. Uh-huh.

Nemeth

Q. That man's testicle was reduced to mush. That's the doctor's words, okay? Some blunt force trauma occurred at that point to do that damage to the inmate's testicle, okay? Now, as I've told you before, it's incumbent upon you at this point to tell me what you saw. You're watching the incident. You're seeing it happen. I need to, for you to tell me what you saw. What happened to that man's testicle. It didn't just self-destruct.

Romero

A. I'm sure it didn't self-destruct, but, I mean, I didn't, I mean, I don't know what you want me to tell you, I mean...

Nemeth

Q. Well, I want you to tell me what you saw and I don't want you to be worried about what you said before because you haven't said, you haven't said what happened to the testicle before. I want you to tell me at this point. Because this is the first time we're interviewing. This is the first Internal, in it, Affairs interview you've, you've had.

Romero

A. Right.

Nemeth

Q. Okay? And it's going to be the only one you're gonna have. So this is your chance, your one chance, to say the whole truth, to tell me what happened to the man's testicle when you're witnessing this force incident two feet in front of you.

Romero

A. Right. (Chuckle) That, like I told you, they, they bent his legs back, they hobbled him, and, and I don't know who hobbled him, but that's what I saw. I mean, I don't know what happened to the man's testicle. I, I have no idea. I mean, I saw the incident. I was there. It was only two feet away from me. You know, I, I saw the whole thing. Well, not the whole thing, but I saw what I, what I saw and, I mean, I don't, I don't know what you want me to say about his testicle. I mean, his testicle, like you said is gone. I, I mean...

Nemeth
Q. Well, I want you to tell me the truth is what I want you to do.

Romero
A. Well, I, I'm telling you what I saw. That's, I mean, that's all I can tell you. I can't sit here and tell you, you know, "Oh, I saw, you know, some deputy kick him or do something," when that's not in reality what I saw. That's, I can't, I can't sit here and tell you that, because then, I'd be lying to you if I'd said some, you know, something that I didn't see. And I'm not going to do that.

Nemeth
Q. Well, I certainly don't want you to lie to me. But I do want you to tell me what you saw.

Romero
A. Right, and I'm telling you...

Nemeth
Q. Okay, I want...

Romero
A. ...do that.

Nemeth
Q. Well, let's, let's go back to the incident. You got Sloan in the left mid-side. Is that right?

Romero
A. Uh-huh, yes.

Nemeth
Q. Between his mid-back and his buttocks. Is that right?

Romero
A. Okay.

Nemeth
Q. Okay. What was he doing there?

Romero
A. When he first, when I first relieved him, as he went over there?

Nemeth
Q. Right.

Romero
A. He was, he was hitting him in the rib area, hitting him in the back area, and they were trying to gain control of him. He put his knee on his back, on his buttocks area, left buttocks, and he was kneeing him, I mean kneed him, hitting him (demonstrated by shoving a fist into an open palm) with his, with his, with his fist.

Nemeth
Q. Where was he hitting him with his fist?

Romero
A. The rib area, the back area.

Nemeth
Q. Okay. And do you know what fist he was using?

Romero
A. No, I don't remember.

Nemeth
Q. Both, or just one?

Romero
A. Could've been both. Could've been just one. I don't remember.

Nemeth
Q. Okay. Was he kneeing him at all, while he was over there?

Romero
A. Not, not, not that I saw. I he wasn't, you know, jumping up and doing no wrestling knee or anything like that, not that I saw.

Nemeth
Q. Okay. Who was the closest deputy to you?

Romero
A. I, well, I'd have to say whoever, I mean, I guess Kammer was, if he was on his legs. Kammer would've...

Nemeth
Q. Well...

Romero
A. ...had to have been the closest one to me. But like I sai-

Nemeth
Q. Was he on his legs?

Romero
A. If, I mean, I, like I said, I, I'm pretty sure he was. I can't specifically remember. I don't remember looking at Kammer saying, "Oh, there's," you know, "there's Kammer." But I'm, what I can remember, I'm, I'm almost positive he was on his legs, on, holding the inmate's legs. And if that's the case, he would have been the closest one to me.

Nemeth
Q. How was he holding his legs?

Romero
A. I can't, I can't remember if he was pinning him down, or if he was choke, like choking him type, like holding him in his, like he was choking him down or something. I can't remember. But I know he was holding them. I, I'm pretty sure he was there. I'm pretty sure he was in the leg area. I just can't remember how he was holding the legs.

Nemeth
Q. Alright. First you said you weren't sure if he's pinning him down and you motioned with both your hands. And how would that go?

Romero
A. Well, you just kind of hold him down like, I don't know the, the distance or any-, but I mean, you can have like one, one hand on his, back of his thigh area and the other one down at his ankle area, or something like that. Just pinning it, pinning it down towards the ground.

Nemeth
Q. The back of his thighs? That far up?

Romero
A. Or his knee area, right here, towards this, you know. I've seen that done before. I mean, it, it's happened before where you hold them down that way.

Nemeth
Q. Okay. Is that what he was doing?

Romero
A. I can't remember. I can't, I don't remember specifically that's what he was doing or if he was actually choking him.

Nemeth
Q. Now, when you say "choking him," was he, he wasn't choking his neck.

Romero
A. No, his legs. You know, having them inside his, his arm (inaudible)...

Nemeth
Q. Okay. So you're folding your, your right arm into something, what would be similar to like a position you put a person in a carotid restraint...

Romero
A. Yes.

Nemeth
Q. And where would the inmate's leg be, if this was the position?

Romero
A. Right inside your arm, your forearm and your bicep.

Nemeth
Q. Okay. And then you'd squeeze it to pin the...

Romero
A. Right.

Nemeth
Q. And what part of his leg is there?

Romero
A. It's usually his ankle or right above his ankle.

Nemeth
Q. Okay. And what position was the deputy in at that point? This is Kammer, right?

Romero
A. Right. As far as, oh, you mean, like, I, I don't know if he was on his knees or I, I mean, I don't know how, he, I'm sure he wasn't laying down on the floor, but a, he was probably on his knees.

Nemeth
Q. Probably on his knees?

Romero
A. Probably on his knees or squatting down or something.

Nemeth
Q. And what about Broad? Okay. What about, is it Broad that's on the other leg, what would be the inmate's right leg?

Romero
A. Well, like I said before, I can't, I can't remember if he was on the leg or not. But I remember him, I remember him getting blood on himself or, or something. I can, I can't, I remember him getting blood on himself or something to where he had to stop. So like I don't know if that came from grabbing his leg and he had to stop and said, "Oh, that's enough," you know, or, or he got it, I'm, I'm, that's where I had assumed he got it from. I, I don't remember, I don't remember what he told me or what he said, but I kind of, I had assumed that that's where he got it from was maybe reaching down and grabbing his legs, and he got blood and he didn't have gloves on, so he decided to, to back off because...

Nemeth
Q. Did somebody...

Romero
A. ...of safety reasons.

Nemeth
Q. ...relieve him? Okay. Somebody take his position up?

Romero
A. No, I, I, I, I, that's where I think Kammer jumped and maybe grabbed the other leg and he had both legs or something. Because I know Barrett was there, but he didn't, he didn't get involved or anything.

Nemeth
Q. Okay. And at this point, what is [redacted] doing?

Romero
A. I, I, I'd assumed he's hitting him. I mean, pretty much everybody was hitting him that was on his body part, trying to gain control of him. I cannot remember what he's specifically doing. I, I don't remember if he was, you know, hitting him close-handed or open-handed or what he was doing, but I, I mean, when I looked at the whole incident, I just remember seeing, you know, deputies hitting the inmate, you know, and trying to gain, gain control of him. And like I said, I didn't sit there and, and see a certain deputy doing one thing or another. I just remember seeing the whole incident and seeing deputies, but like I said, I'd assume he was hitting him, but I can't say for sure, though. Because he was like up on the right-hand side.

Nemeth
Q. Did you see [redacted] reaching or touching anywhere near the inmate's groin area?

Romero
A. No.

Nemeth
Q. Or the back of his buttocks? Thigh area?

Romero
A. I mean, as far as I, I, if I remember correctly, he was up on, up on the, the upper part of his back, his right-hand side. He was

on, from his shoulder to about his midways, or mid-back, so I don't remember him reaching all the way across and, you know.

Nemeth
Q. Uh-huh. Who else was on the right side?

Romero
A. I believe it was, oh, [redacted], [redacted] the only one.

Nemeth
Q. Okay. And where was [redacted]?

Romero
A. He was like towards the lower part, buttocks area, up to mid-back.

Nemeth
Q. Did you see him reach the inmate's groin area?

Romero
A. I can't, I don't, I don't remember. Like I said, I don't remember anybody reaching towards his groin area or, you know, I, I don't remember him reaching towards his groin area.

Nemeth
Q. Were you looking at him?

Romero
A. At who? At [redacted]?

Nemeth
Q. At [redacted].

Romero
A. No. I mean, I saw him there, but I wasn't, you know, looking at what he was doing. I wasn't, I didn't specifically look at [redacted] to see what he was doing.

Nemeth
Q. Okay.

Romero
A. But I know he was there.

Nemeth
Q. Alright. When you first got into the module, you came with who?

Romero
A. Kammer, Deputy Kammer, Broad, Barrett, and myself.

Nemeth
Q. What were, what was your assignment that night?

Romero
A. 9000 Roving Patrol.

Nemeth
Q. Okay. And Broad?

Romero
A. I believe it was prowl, 9000 Prowl.

Nemeth
Q. Kammer?

Romero
A. 9000 Roving Patrol.

Nemeth
Q. And what...

Romero
A. Barrett?

Nemeth
Q. ...Barrett.

Romero
A. I believe he was working, maybe Movement Control. I can't remember, but I'm pretty sure it was Movement Control.

Nemeth
Q. Okay. So, who was the first one in the door at 4400?

Romero
A. I'd have to say I was. I think I was.

Nemeth
Q. Okay. Do you remember seeing- Well, what's the first thing you saw when you came in the door?

Romero
A. I saw the inmate on the floor with three deputies on him, on top of him, and they were struggling. I mean, they were like moving and hitting him and that's what I remember seeing.

Nemeth
Q. Okay. The inmate's not handcuffed at that point.

Romero
A. No.

Nemeth
Q. Okay. Now, you came in and what was Sloan's position?

Romero
A. He had the door, the, the module door open, the officer's booth door open, and he was standing by the door.

Nemeth
Q. Okay. And what did he say to you?

Romero
A. He said something to the effect of, "Hold the door for me," or something, something that, something to the effect of, you know, "Hold the door for me." So I said, "Okay." So I went and held the door for him.

Nemeth
Q. Okay. Do you remember his exact words?

Romero
A. No. I can't remember his, I mean, I, I don't remember his exact words. It was something like, "Hold the door for me," or something like that. I can't remember, though, specifics.

Nemeth
Q. Okay. And that's what you did?

Romero
A. Yeah.

Nemeth
Q. Why did you do that?

Romero
A. I don't know, because he asked me to. I, I mean, he was there. He knew what the incident was about, so I decided to hold the door for him.

Nemeth
Q. Well, I guess I'm not, what I'm trying to ascertain is, what difference does it make if he knows what the incident's about, if there's deputies involved in a fight, an ongoing fight with an inmate who they don't have control of at this point?

Romero
A. I, I mean, I guess, yeah, I guess, I mean, you're right. I mean, I was asked out already and I, like I said, I mean, it was just a decision I made. He asked me to hold the door for him and I held the door for him, that was...

Nemeth
Q. Uh-huh.

Romero
A. ...I mean, you're right. I mean, deputies were struggling or whatever and, but he asked me to hold the door, so I held the door.

Nemeth
Q. Okay. Let me tell you, there were a couple witnesses, several eye witnesses to this event. Do you remember seeing a guy in the shower?

Romero
A. Yes.

Nemeth
Q. Okay. Remember seeing a guy on the phone, in the front of the module?

Romero
A. No.

Nemeth
Q. At the time of the incident?

Romero
A. No.

Nemeth
Q. You remember seeing a guy in the laundry room, front laundry room, across from where the phone is?

Romero
A. No.

Nemeth
Q. Do you remember seeing a Hispanic trusty on the other side, on the C Row side?

Romero
A. No.

Nemeth
Q. Well, they remember you. And they remember a statement that was made to you, when you first entered. So I, what I'm going to ask you to remember is, what was the first thing Sloan said to you when you came in the module? You're the first one in.

Romero
A. Right.

Nemeth
Q. You're the first one of four, there's three people behind you.

Romero
A. Right.

Nemeth
Q. What's the first thing that Sloan said?

Romero
A. Like I said, I can't, I mean, he said something to the effect of, "Hold the door for me," and I went and held the door for him. I can't, I...

Nemeth
Q. No, the very first thing he said. Ultimately the question of relieving him in the booth came up, but what was the very first thing that was said?

Romero
A. I, I don't know. I, I, I didn't, I didn't hear him. If he said something, I didn't hear him. I, I don't remember...

Nemeth
Q. Okay. Remember when Sergeant Hamilton talked to you, last time?

Romero
A. Right.

Nemeth
Q. Okay. Do, do you remember him asking you about a specific statement or quote?

Romero
A. That Sloan told me or that...

Nemeth
Q. Uh-huh. Sloan told you when you first got in there.

Romero
A. No, I can't, I can't remember. I don't remember it.

Nemeth
Q. Okay. Do you remember Sloan saying to you when you first came in, words to the effect of, "Go on, go on ahead. Get you some"?

Romero
A. No, I don't remember that.

Nemeth
Q. Okay. You don't remember that at all?

Romero
A. No.

Nemeth
Q. It doesn't sound vaguely familiar?

Romero
A. No.

Nemeth
Q. Okay. Is it possible that it was said? You don't remember it?

Romero
A. I mean, he could have, I mean, if he said it, I didn't hear it, but I'm, I guess, I didn't, I don't think he said it. I mean, I didn't hear it, so...

Nemeth
Q. Well, see, the information is and what the witnesses say is substantially different. What the witnesses say is that you responded. You replied. And your reply, according to witnesses, was, "No, no thanks. I'll pass on this one." Or words to that effect. Do you remember that?

Romero
A. No. I don't know. That, I, that never happened.

Nemeth
Q. You, you didn't say that?

Romero
A. Uh-uh.

Nemeth
Q. Well, when Sloan asked you to relieve him, what, what did you say?

Romero
A. I didn't say anything. I just, he just asked me to hold the door and I held the door for him. I didn't say anything.

Nemeth
Q. Okay. When he, he said words to the effect of, "Hold the door for me," you don't remember exactly what he said?

Romero
A. No, that's what I remember, but I don't remember, I don't remember if that was what he exactly said. But it was, you know, to that effect, "Hold the door."

Nemeth
Q. Could it be to the effect of "Relieve me, so I can get some, so I can get mine," something to that effect?

Romero
A. I don't think he said, I mean, he didn't say that, I didn't hear that he said, that's not what I, that's not what I think he said. I remember him saying, "Hold the door for me." I held the door for him.

Nemeth
Q. Well, what you said is you don't remember exactly what he said...

Romero
A. Right.

Nemeth
Q. ...he said something to the effect of "Hold the door for me," which leaves a whole wide range of possibilities. Because something...

Romero
A. Yeah, that...

Nemeth
Q. ...to the effect is also, "Relieve me, so I can get some," or "so I can get mine. Relieve me here. Cover the booth."

Romero
A. I guess, I mean, yeah. I, but I can't sit here and tell you, well, he said, "Hold the door for me," or "Hold the door for me, man." I can't, you know, but it was something like that. It

wasn't, I can't sit here and tell you that, what he exactly told me.

Nemeth
Q. Did he make some reference to relieve him so he can get involved in the use of force?

Romero
A. No.

Nemeth
Q. Nothing at all?

Romero
A. I mean, I don't remember him, what I remember is when I walked in and he, he asked me to hold the door, it was just like, "Hold the door." It was, it wasn't like something long. It wasn't like, you know, "Hey, hold the door for me, man, so I can get me some." I mean, it wasn't like, it wasn't extended. It wasn't, it was just like, "Hold the door for me," and I just held the door for him. That was it. It was just like quick. It wasn't like, I mean, that's, that's what I remember.

Gjendem
Q. Uh-huh. Okay. Let's go back. You're up on 9000, right?

Romero
A. Yes.

Gjendem
Q. You hear the public address announcement, right?

Romero
A. Yeah.

Gjendem
Q. Where were you at, on 9000?

Romero
A. Right by the control booth, there by the door.

Gjendem
Q. Who's with you at the control booth?

Romero
A. At this time, Deputy Kammer, I believe was with me.

Gjendem
Q. You and Kammer?

Romero
A. Right.

Gjendem
Q. And that's all?

Romero
A. Right.

Gjendem
Q. The announcement goes out. What happens?

Romero
A. Well, we start running down the escalators.

Gjendem
Q. We, who's we?

Romero
A. Me and Deputy Kammer. And...

Gjendem
Q. Okay.

Romero
A. ...we start running down the escalators and we go down two flights of steps, two flights of escalators, get down to 4000 and when we get there, the booth person points towards 4400. So we run in there. We get there...

Gjendem
Q. Stop right there. Now, where's Broad?

Romero
A. Well...

Gjendem
Q. And Barrett?

Romero
A. When we get, right as we get towards the booth, they're right behind us.

Gjendem
Q. Which booth?

Romero
A. 4400 module...

Gjendem
Q. How'd you leave that out just a moment ago?

Romero
A. I said we're walking, we're running towards, towards the, 4000...

Gjendem
Q. Then you said you to 4400.

Romero
A. Right, because the booth person pointed us to 4400.

Gjendem
Q. That's correct, so you...

Romero
A. So we started running towards there. As we got to 4400, they were right behind us, so...

Gjendem
Q. Okay. So, now there is four of you...

Romero
A. Right.

Gjendem
Q. ...at the front door of 4400.

Romero
A. Right.

Gjendem
Q. Is the door open or closed?

Romero
A. I believe it was, believe it was open. I can't remember. I, I remember Deputy Barrett holding the, pulling the door open. That's how I knew he was behind us, because he came away and grabbed the door and pulled it open, and then that's when I ran in.

Gjendem
Q. Okay. So it must...

Romero
A. So...

Nemeth
Q. ...have been closed then.

Romero
A. Oh, it, I don't remember if it was closed or if it was pried open, because the doors stay open somewhat. You can just pull 'em open.

Gjendem
Q. Okay. So...

Romero
A. So, yeah.

Gjendem
Q. ...Barrett reached over and opened the door.

Romero
A. Yes.

Gjendem
Q. And then you were the first one inside?

Romero
A. Yes.

Gjendem
Q. Who was behind you?

Romero
A. I believe Deputy Kammer.

Gjendem
Q. And then?

Romero
A. Deputy Broad. And then, I guess, Barrett came in last, I think.

Gjendem
Q. Barrett came in last?

Romero
A. Yes.

Gjendem
Q. Who stayed by the door, anybody? I'm talking about the main door, from the hallway.

Romero
A. Oh, I don't, I don't think so, no, nobody.

Gjendem
Q. Nobody stayed by that door?

Romero
A. No, not that I know of.

Gjendem
Q. Okay. You're the first one inside there, correct?

Romero
A. Yes.

Gjendem
Q. What did you see?

Romero
A. I saw...

Gjendem
Q. At that time.

Romero
A. As I walked in, I, to my right-hand side, I saw the inmate laying on the floor and three deputies on top of him.

Gjendem
Q. Okay.

Romero
A. Hitting on him and...

Gjendem
Q. Was he...

Romero
A. ...that.

Gjendem
Q. Was he face up or face down, the inmate?

Romero
A. Face down, on the floor.

Gjendem
Q. He was face down?

Romero
A. Yes.

Gjendem
Q. And the three deputies that are hitting him at this time now are [redacted], [redacted], and Kluth.

Romero
A. Correct.

Gjendem
Q. And we have Sloan at the door.

Romero
A. Yes.

Gjendem
Q. The module.

Romero
A. Yes.

Gjendem
Q. The door into the...

Romero
A. Officer's booth.

Gjendem
Q. Booth, the officer's booth. When the inmate's on the ground or, or on the floor over there, on the right side, on the inmate's right side, I'm talking about on, on his right arm...

Romero
A. Right, right.

Gjendem
Q. ...is that where we have [redacted]? Or Kluth?

Romero
A. I believe it was [redacted], on his right-hand side, [redacted].

Gjendem
Q. Are you certain of that?

Romero
A. Am I certain? I mean, I'm, that's what I remember.

Gjendem
Q. Okay. And who was on the left side.

Romero
A. Kluth.

Gjendem
Q. Kluth's on the left side.

Romero
A. Yes, of the inmate, yes.

Gjendem
Q. And [redacted] was at the legs?

Romero
A. No, [redacted] was on the right-hand side, like his buttocks area, lower back area.

Gjendem
Q. Okay. And you had just come inside there and Sloan's at the door. Sloan asked you to take the door, correct?

Romero
A. Correct.

Gjendem
Q. Sloan goes over to the inmate now. Is that correct?

Romero
A. Yes.

Gjendem
Q. The inmate's still not handcuffed. Is that right?

Romero
A. Yes.

Gjendem
Q. He's not handcuffed.

Romero
A. He's not.

Gjendem
Q. Okay. What happens then when Sloan get's over there? Now mind you, we've already got three inmates over there.

Romero
A. Three deputies.

Gjendem
Q. Three deputies over there hitting on the inmate.

Romero
A. Right.

Gjendem
Q. Now we've, we've got a fourth deputy going over there.

Romero
A. Right. He, while the inmate was laying down, face down on the ground and Kluth, I mean, Deputy Sloan went up towards him, got, kneeled, kneeled on his buttocks area, put his knee on his buttocks area...

Gjendem
Q. On the left side?

Romero
A. On the left side, yes.

Gjendem
Q. Now we have three deputies, I think, on the left side now, correct?

Romero
A. No. You have Deputy Kluth and Sloan on the left and then [redacted] and [redacted] on the right.

Gjendem
Q. Okay.

Romero
A. And he kneeled down on him and started hitting him. I don't remember how many times or, or, you know, with what or with what hand or whatever, but...

Gjendem
Q. Okay. Now we got, we got Barrett also. Where did Barrett go at, over there on the inmate?

Romero
A. Barrett? I don't think Barrett got involved in the incident. I mean, I didn't see him, as I was looking at the incident, I didn't see him in the picture, so I don't think he was involved in the incident.

Gjendem
Q. Well, you got, you got four deputies here fighting this inmate...

Romero
A. Right.

Gjendem
Q. ...and the inmate's squirming and everything, right?

Romero
A. Right.

Gjendem
Q. Why isn't that other deputy over, go over there and get involved also?

Romero
A. Well, because from what I remember, Kammer came in right behind me and then Broad, and I'm, I believe they jumped on his legs. Well, I know Kammer...

Gjendem
Q. Who's, they did?

Romero
A. Kammer and Broad grabbed, grabbed the legs, or I know Bro-, Kammer did. I'm not certain Broad, I'm certain Broad did. But at this point, you have six inmates, I mean six deputies on an inmate. I mean, there's really no room for another deputy to get involved. He could jump in, but all that's really going to happen is that if you're, there's too many deputies, the deputies are going to end up getting hurt, getting hit by his own deputies, so there's really no need for, for him to get involved. I didn't tell him that, I didn't think. I probably wouldn't if there's six deputies on one inmate. There's not need for it.

Gjendem
Q. Uh-huh. Now we got Sloan on the left-hand, correct?

Romero
A. Yes.

Gjendem
Q. We've got Sloan now punching the inmate. Is that correct?

Romero
A. Yes.

Gjendem
Q. How many times did Sloan punch him?

Romero
A. I don't know. I couldn't tell you.

Gjendem
Q. More than one?

Romero
A. Yes.

Gjendem
Q. Less than a hundred?

Romero
A. Yes.

Gjendem
Q. Less than fifty?

Romero
A. Yeah.

Gjendem
Q. Less than twenty-five?

Romero
A. Yeah, that's possible.

Gjendem
Q. Somewhere between one and twenty-five?

Romero
A. That'd be a fair guess. That'd be...

Gjendem
Q. Closer to twenty-five?

Romero
A. No, no. I don't, I don't think he hit him that many times.

Gjendem
Q. How many times do you think he hit him?

Romero
A. I'd say about fifteen, maybe, ten, fifteen times.

Gjendem
Q. Ten or fifteen times?

Romero
A. Yeah.

Gjendem
Q. Okay. And when he was hitting him, what was he hitting him with?

Romero
A. With his hand.

Gjendem
Q. With his hand? Open hand? Fist?

Romero
A. No, I, I'd assume with his fist. I don't know. No, I don't remember his, seeing open hand or closed hand. I don't remember.

Gjendem
Q. Both fists?

Romero
A. I don't know. No, I, maybe his, I don't know, maybe one, maybe both. I can't remember.

Gjendem
Q. Okay. Now we've got Kluth on the left-hand side, a little forward towards the shoulder area, correct?

Romero
A. Yes.

Gjendem
Q. Just forward of Sloan.

Romero
A. Uh-huh.

Gjendem
Q. And what's Kluth doing?

Romero
A. Hitting him...

Gjendem
Q. Punching also?

Romero
A. Yes.

Gjendem
Q. Okay. And how many times did Kluth hit him?

Romero
A. I don't know. Couldn't say.

Gjendem
Q. Once?

Romero
A. I don't know. They were already here when I got there so, they were hitting him as I walked in...

Gjendem
Q. I know that.

Romero
A. ...so I don't know. From, when the point I started seeing it, I don't know, probably about the same amount as Sloan.

Gjendem
Q. Somewhere between ten and fifteen? That you saw?

Romero
A. That I saw.

Gjendem
Q. Okay. Okay, now on the other side, we've got [redacted], right?

Romero
A. Right.

Gjendem
Q. And he's up around the shoulder area.

Romero
A. Right.

Gjendem
Q. And when you got there, [redacted] was already down there on the inmate, correct?

Romero
A. Yes.

Gjendem
Q. Think you said, "laying on him," or something like that, the way you described it...

Romero
A. He was...

Gjendem
Q. ...sometimes?

Romero
A. He was on top of him. He was...

Gjendem
Q. On top of him?

Romero
A. Yes.

Gjendem
Q. And he was punching on him too, correct?

Romero
A. Yes.

Gjendem
Q. How many times did he punch him?

Romero
A. Say about the same times.

Gjendem
Q. So, it was between ten and fifteen?

Romero
A. Probably.

Gjendem
Q. Okay. And now we're going down to [redacted]. [redacted] was down around the buttocks area too, right?

Romero
A. Correct.

Gjendem
Q. [redacted] was hitting on him too, correct?

Romero
A. Yes.

Gjendem
Q. How many times did [redacted] hit him?

Romero
A. About the same, probably.

Gjendem
Q. Well...

Romero
A. Ten to fifteen.

Gjendem
Q. Ten to fifteen?

Romero
A. Yeah.

Gjendem
Q. Okay. Let's go back over to Sloan now. Did Sloan take his knee and hit him in the buttocks area with his, with his right knee? Or in...

Romero
A. I don't know if he...

Gjendem
Q. ...the hip area?

Romero
A. I don't if he did a, you know, he didn't, I don't recall him doing, like I, like I told, like I told him, I don't remember if he did a, a knee, you know, but I know he, I remember him putting, placing a knee on top of the inmate. I don't know how he did it. I don't know if he jumped up and did a, a wrestling move or anything like that. I know he didn't do that. So, I don't know how, how severe he put his knee on the inmate. But I know, I know he didn't jump up and actually, you know, knee the inmate on the buttocks area.

Gjendem
Q. Well, could he give him some, given him some forceful blows with his knee? Because remember now, we're talking about Sloan being down on top of the inmate, correct?

Romero
A. Right. He, well, he, yeah. He got down. He placed his knee on top of the inmate.

Gjendem
Q. Yeah.

Romero
A. Right.

Gjendem
Q. And you were only just a couple feet away from this altercation taking place, right?

Romero
A. Sure, yes.

Gjendem
Q. Well, Sloan, he, he could have taken his knee and driven 'em into the, the buttocks area of [redacted], correct?

Romero
A. Well, yeah, he could've, yes.

Gjendem
Q. Did you see him do that?

Romero
A. No. I mean, I just saw him put, place, put his knee on top. I don't, I didn't see him drive his knee into him, you know. He could've done it. I didn't notice it. I didn't, I didn't take notice of it. I...

Gjendem
Q. Okay, now we have, let's see, these four deputies now are hitting the inmate, correct?

Romero
A. Right.

Gjendem
Q. At any time, was anybody trying to get a hold of the inmate's arms and bring them behind his back?

Romero
A. Yes, well, that's where they were, that's where they were trying to get to was to restrain him, to finally get him cuffed and, and get him hog-tied, hobble restrained.

Gjendem
Q. So now on this inmate so far, we've got somewhere from 40 to 60 blows on this inmate, correct?

Romero
A. Yes.

Gjendem
Q. In that area.

Romero
A. Sure.

Gjendem
Q. And we still don't have him handcuffed.

Romero
A. Right.

Gjendem
Q. At some point, do we get him handcuffed?

Romero
A. Yes.

Gjendem
Q. Kammer's down there on his, either one leg or two legs. We're not sure, certain, if Broad has the right leg...

Romero
A. Right

Gjendem
Q. ...or if Kammer's got both legs.

Romero
A. Correct.

Gjendem
Q. Is Kammer punching on his legs, trying to hold his legs?

Romero
A. No, not that I remember, no.

Gjendem
Q. No?

Romero
A. No. I can't, like, like I can't remember, like I said, I don't even remember looking at Kammer. I just remember looking

towards the, the, towards the inmate's head, so I couldn't, I was really looking at Kammer. I don't remember look, seeing him or hitting the inmate. That's it.

Gjendem
Q. Did you ever hear anybody, any deputies directing the inmate to put his hands behind his back?

Romero
A. When, when I was watching the incident, there was, deputies were yelling. They could have said it. I didn't, I don't remember hearing it clearly like, "Put your hands behind your back." I don't remember. But, I mean, yeah, well, you could always speculate. You could say, yeah, I, I heard the inmate, but I don't (inaudible) I heard the deputies say it, but...

Gjendem
Q. The, the inmate that you saw over in the, I believe it was the shower area...

Romero
A. Right.

Gjendem
Q. Believe in your first interview or, hold off, the guy that you saw in the shower, can you describe him for me?

Romero
A. I can't remember. I, I think he was a black inmate. That's pretty much all I remember.

Gjendem
Q. Yeah. That was you, your, first time you said to a black inmate. Did you ever know his name?

Romero
A. No.

Gjendem
Q. Did you ever learn his name?

Romero
A. No.

Gjendem
Q. Did you ever interview him?

Romero
A. No.

Nemeth
Q. Okay. You say you heard a lot of things you, you can't remember specifically anybody saying, "Put, give up, put your hands behind your back," or something like that. Is that right?

Romero
A. Right.

Nemeth
Q. What, what do you remember hearing the deputies say?

Romero
A. I, I'm, I just remember like yelling, like, I mean, I could assume they were telling him, "Put your hands behind your back," but, you know, that's (inaudible)...

Nemeth
Q. Don't assume. Just tell me what you...

Romero
A. Well, that...

Nemeth
Q. ...remember hearing.

Romero
A. I, I don't, like, if I had to tell you what I remember, I don't remember anything. I mean, I just remember yelling like just directed towards the inmate. And I remember somebody yelling to the inmate in the shower, "Turn around and face the wall." I remember that. But I don't...

Nemeth
Q. Do you know who that was?

Romero
A. I believe it was [redacted]. I can't remember if it was [redacted], but I remember somebody yelling at the inmate, "Face the wall. Face the wall." It could've even been Deputy Barrett. I don't remember specifically.

Nemeth
Q. Okay. Now what do you remember seeing [redacted] do? Or...

Romero
A. [redacted]?

Nemeth
Q. ...[redacted]. [redacted], for the tape, is how you spell that. What do you remember seeing him doing?

Romero
A. Like I say, he was on the inmate, hitting him, and just trying to get control of the inmate. That's what I remember.

Nemeth
Q. Where was he hitting him?

Romero
A. Same rib area, back area, his right side.

Nemeth
Q. Okay, now [redacted] is the one that's towards the right buttock area?

Romero
A. Right.

Nemeth
Q. Was he punching him in the thigh at all?

Romero
A. I can't, I can't remember if he was or wasn't.

Nemeth
Q. Alright. Okay. Make sure we got a good record of you saying what you're going to say. Did you see any deputies kick the inmate?

Romero
A. No.

Nemeth
Q. Did you see any deputies make any kicking motions at the inmate?

Romero
A. No. As far as you mean reaching back...

Nemeth
Q. Yeah, with the feet. Anything, any kind of a shuffle with his feet?

Romero
A. No. Oh, I mean, just maybe trying to gain position, but, I mean, that's...

Nemeth
Q. No, well, I'm talking about were their feet contacting the inmate?

Romero
A. No, I didn't see that.

Nemeth
Q. No?

Romero
A. No.

Nemeth
Q. Nothing?

Romero
A. Nothing.

Nemeth
Q. And did you see any of the deputies touch his groin area?

Romero
A. No.

Nemeth
Q. Did you ever hear the inmate say, "I give up," something of that effect.

Romero
A. I don't remember hearing it, no. Could've been said, though. I mean, there was a lot of yelling go out, so, yeah, it could've been said.

Nemeth
Q. Did you hear the inmate yelling?

Romero
A. Yeah, I think I, yeah, I remember hearing him yelling.

Nemeth
Q. What was he saying?

Romero
A. I don't remember him saying anything. I could hear just yelling. Just...

Nemeth
Q. Screaming?

Romero
A. Yeah, screaming-type, you know, just like, ahhh.

Nemeth
Q. Like in pain-type thing?

Romero
A. Yeah, possibly.

Nemeth
Q. Okay. And we've already said that [redacted], is it [redacted], is that how you say it?

Romero
A. Yes.

Nemeth
Q. [redacted] is on his right rear buttock and Sloan is on his left rear buttock. Is that right?

Romero
A. Yes.

Nemeth
Q. And you saw both of them punching the inmate, right?

Romero
A. Yes.

Nemeth
Q. Okay. Do you know exactly where they were punching him?

Romero
A. No. Can't say exactly.

Nemeth
Q. So is it possible then that they were punching him in the inner thigh, groin area and you just couldn't tell?

Romero
A. It's possible.

Nemeth
Q. So in other words, what I'm asking you, you can't say for certain that they weren't. Is that true?

Romero
A. Yeah, I can't say for certain they weren't, but I can't say for certain that they were either.

Nemeth
Q. Okay. Did you ever hear somebody make a statement to the effect of...(END OF TAPE 1).

Okay, this is Tape 2 of IAB case number 008383. We're interviewing subject Cesar Romero at Central Jail. Okay, Deputy Romero, just prior to the last tape ending, I asked you the question, do you remember hearing someone say, "He hasn't had enough yet," or some

words to that effect. And you answered, but the tape expired. What was your answer?

Romero
A. My answer was, no.

Nemeth
Q. Okay. Was it possible that comment was said and you didn't hear it or pick it out amongst the other yelling that was going on at the time?

Romero
A. I guess it's possible.

Nemeth
Q. Did you hear every word that was said in the module that night?

Romero
A. No.

Nemeth
Q. Okay. Alright. How long were you in the booth relieving for Sloan?

Romero
A. I'd say no more than, no more than maybe three, four minutes at the most.

Nemeth
Q. You're in the booth relieving Sloan, holding the door open for three or four minutes at most?

Romero
A. Right.

Nemeth
Q. Okay. How long do you think the, the force event took in total, from the time you got there?

Romero
A. From the time I got, I don't know. I'd say maybe about, I'd say maybe about four minutes or so, about four minutes. So, I was probably holding the door for about five minutes.

Nemeth
Q. About five minutes?

Romero
A. Right.

Nemeth
Q. And the force thing went for about four minutes?

Romero
A. I'd say.

Nemeth
Q. And then what happened?

Romero
A. Well, once they turned him over on his side, Slo- and I know it was Sloan and I can't remember if it was Kluth or, who came into the booth and went towards the phone, I, I'd assumed to call the sergeant or somebody, and went towards the phone area. That was pretty much it.

Nemeth
Q. And is that when you were relieved then?

Romero
A. Pretty, yes, that...

Nemeth
Q. And, and what did you do?

Romero
A. I, well, I asked them, I said, you know, "Is everything cool? You guys need anything?" They said, "Not right now," you know, "We'll, we'll get back to you." I said, "Okay." So...

Nemeth
Q. Who, who were you talking to?

Romero
A. To Deputy Kluth, I believe. I think Sloan was on the phone. So I, I believe it was Kluth. I'm pretty, I think. Sloan was on the phone so I, I was asking Kluth because they were both standing by the phone area.

Nemeth
Q. Okay. So after the inmate's handcuffed and hobbled...

Romero
A. Right.

Nemeth
Q. ...both Sloan and Kluth go in the 4400 officer's area?

Romero
A. Yes.

Nemeth
Q. And Sloan picks up the phone and calls somebody?

Romero
A. Yeah.

Nemeth
Q. And Kluth's standing nearby?

Romero
A. Yeah.

Nemeth
Q. And you spoke to Kluth and said, "Do you need anything"?

Romero
A. Right.

Nemeth
Q. And what was his answer?

Romero
A. He says, "No, not right now."

Nemeth
Q. And so...

Romero
A. So, I closed the door behind me and I walked back up with, I can't remember if everybody else walked back up with me or not. I walked back up towards 9000.

Nemeth
Q. Okay. Now, what academy class did you graduate from?

Romero
A. 278.

Nemeth
Q. 278?

Romero
A. Yes.

Nemeth
Q. Okay. And when was that, that you graduated?

Romero
A. February 10th of, was it '91.

Nemeth
Q. February of 1991?

Romero
A. Yes.

Nemeth
Q. Did you have any training regarding force in the academy?

Romero
A. Yes.

Nemeth
Q. And did you have any training regarding the reporting of force in the academy?

Romero
A. Yes.

Nemeth
Q. And what did they tell you in the academy to do?

Romero
A. Well, whenever you see force, you witness force, always report it to your supervisor.

Nemeth
Q. Did they tell you how to report it to your supervisor?

Romero
A. Always go personally and tell 'em that you were witness to a force incident.

Nemeth
Q. Okay. Then how about when you got to central jail, did you ever receive any training in the force policies and what to do in situations involving force?

Romero
A. Training as far as what?

Nemeth
Q. In briefings, did they brief you know, what to do in the case of a force or did you go to custody training or anything of that nature? Did you attend an 80 hour, 40 hour--

Romero
A. --I don't remember, I don't remember attending a--

Nemeth
Q. --custody training block?

Romero
A. No. Nothing like that. Back when you used to have training they probably went over it though.

Nemeth
Q. You don't remember anything like that?

Romero
A. I don't remember, no.

Nemeth
Q. Do you remember in the academy being told to report anything you witness in the form of force?

Romero
A. Yes.

Nemeth
Q. This event we've been talking about, did you believe that was a force event?

Romero
A. Yes.

Nemeth
Q. Did you report it to a supervisor?

Romero
A. No. No. Not to a supervisor, no.

Nemeth
Q. Why not?

Romero
A. I just, I don't know, I guess I just forgot. I just--I remember telling Deputy [redacted]. I told him, I said, I said, well I didn't actually forget, I just--cause at the time after they said it was over we still had a lot of work to be done up on 9000 and I told Deputy [redacted], "If you need anything written come back and let me know and I'll write, you know, a force package or whatever needs to be written." So he told me, "Okay," so I walked back up to 9000.

Nemeth
Q. Okay. Well, when you were trained in, in reporting force or anything, was that one of the options explained to you? That you could notify another deputy involved and let them know that if they felt it was appropriate for you to write something?

Romero
A. No.

Nemeth
Q. So what I'm still trying to figure out, you know, your thought process, your logic for going ahead and doing that. Do you want to refer to your notebook?

Romero
A. Yeah.

Nemeth
Q. We just put a tape cause the tape can't see it but I can. What you're doing is referring to your, to your deputy field notebook. Do you carry, you make entries every day that you work, is that correct?

Romero
A. Yes. Yes.

Nemeth
Q. Did you make an entry that day for this event?

Romero
A. Yes.

Nemeth
Q. What do you have there?

Romero
A. I--in fact I do have it. I--I know I didn't do it personally, so.

Nemeth
Q. We got, roving patrol. You've got the date, 10-27-94, Sergeant Flannery, roving patrol with Kammer and then you write witnessed 415, deputy involved in 4400. Suspect [redacted]. And you have a number here that's kind of--

Romero
A. --It's supposed to be the booking number.--

Nemeth
Q. --faded over, it looks like [redacted], which you say is his booking number.

Romero
A. Right.

Nemeth
Q. And it says below that, "Sergeant Duncan was notified NFD." Okay. Did you notify Sergeant Duncan?

Romero
A. Not, not personally, no.

Nemeth
Q. That you witnessed--

Romero
A. --no--

Nemeth
Q. --use of force?

Romero
A. No. Not personally.

Nemeth
Q. Who did you notify?

Romero
A. Well, like I said, I told Deputy [redacted].

Nemeth
Q. Okay. Did he notify Sergeant Duncan that you were there present and witnessed the force?

Romero
A. Yes.

Nemeth
Q. He did?

Romero
A. Yes.

Nemeth
Q. And how do you know that?

Romero
A. Because he called me and told me on the phone.

Nemeth
Q. [redacted] called you?

Romero
A. Yes.

Nemeth
Q. And what did he say?

Romero
A. He told me, don't worry about it, you know, you don't have to write anything, so.

Nemeth
Q. Okay. So how do you get from that, don't worry about it, you don't have to write anything that Sergeant Duncan was notified?

Romero
A. Oh well, I don't know if he was--I don't know if he was told that I was there, I mean I--I know he talked to him because he told me not to write anything. I mean they had to obviously talk to him because of the incident.

Nemeth
Q. Sure. But they didn't have to talk to him about you being a witness to it, is that correct?

Romero
A. That's--that's correct.

Nemeth
Q. Okay. Do you understand why the policy requires a personal notification?

Romero
A. Do I understand why? Sure

Nemeth
Q. Why is that?

Romero
A. Because you need to let him know that, you know, that you were there. That way the sergeant, if he needs anything written tells you in person.

Nemeth
Q. Okay. That's right and because when you tell somebody else it gets lost in the translation, there's no verification that it was done. Do you understand that's why it's incumbent on the employee to make the notification?

Romero
A. Yes.

Nemeth
Q. Do you understand that what you're telling us right now is you're essentially admitting to a violation of a force policy of the Sheriff's Department. Do you understand that?

Romero
A. Yes.

Nemeth
Q. Okay. I'm just trying to get your reasonings down so--if I'm asked at some point to explain what you told me as to why you did that. Because you've already told me that you understood what the rules were, is that right?

Romero
A. Yes.

Nemeth
Q. And--explain for me what you understood you were supposed to do when you witnessed force? Not personally involved, just witnessed it? What do you understand you are supposed to do?

Romero
A. You're supposed to tell the supervisor that you witnessed force. Let him know that you were a witness to a force incident.

Nemeth
Q. Personally?

Romero
A. Yes.

Nemeth
Q. Okay. And where did you learn that?

Romero
A. In the academy.

Nemeth
Q. So you knew that at the time this event happened, is that right?

Romero
A. Yes.

Nemeth
Q. Then why didn't you do it?

Romero
A. Because, I--at the time after the incident was over I just kind of, I don't know, I just kind of told, told the deputy, "You know if you need anything just let me know," and that was, you know, I just figured telling him--at the time I didn't, I didn't, I didn't remember the policy, I just figured, "Okay, I'll let the deputy know if he needs me," you know, "I'll be up on 9000." I figured I had to get up on the floor and finish doing the work that we had to do. At that, at that time I wasn't thinking, go to a supervisor and let him know personally.

Nemeth
Q. Why weren't you thinking that? That's what you just said you were trained to think. That's what you just said you knew the policy of the department was.

Romero
A. Right.

Nemeth
Q. Why weren't you thinking that?

Romero
A. I don't--I don't remember. I mean, I don't--I don't know why I wasn't thinking that.

Nemeth
Q. Could it be that you weren't comfortable with what you saw in that module, you didn't really want to be involved in it? You didn't really want to have to write something down on paper?

Romero
A. No. I told you earlier, had that been me I--if I would have been involved in that incident or had that been me, I probably would have did the same thing. So, no it wasn't--that's not the case. I wasn't uncomfortable with it, that wasn't the problem.

Nemeth
Q. Okay. Based on what you've described the physical actions of those deputies, Sloan, [redacted], [[redacted] actually [redacted]], [redacted] and Kluth, there's nothing that you've described to me to this point unless I'm misunderstanding you, that would lead to this inmate's injuries. Is that correct?

Romero
A. Yeah, I guess. Yeah, to the--to the injury you told me about, right.

Nemeth
Q. Yeah, the testicle injury is what we're referring to.

Romero
A. Right.

Nemeth
Q. Is there any idea--do you have any idea at all how that happened?

Romero
A. Well, I'm--yeah, from people telling me--from you guys telling me from--

Nemeth
Q. --No, I'm just talking about what you saw--

Romero
A. --Oh, no, no not from personal--

Nemeth
Q. --not from what people told you.--

Romero
A. --No, not from personal observation, I didn't.

Nemeth
Q. So in your mind have you thought about this incident over the last year's time?

Romero
A. Several--a couple times, but not, not since the last time I was interviewed by.

Nemeth
Q. And then, in your mind when you're thinking about it, how do you, how do you figure the inmate got injured to that degree?

Romero
A. I--I--I hadn't gotten the speci--I--there's different things you hear. As I'm sure you know that you have--we have heard that inmate had the injury prior to that, so--

Nemeth
Q. --Forget that.--

Romero
A. --personally. So that's--but I mean, that's what I had heard prior to this. So previously I just thought well maybe he had it, I don't--I didn't give it much thought. That's how I.

Nemeth
Q. That's how you handled it?

Romero
A. Right.

Nemeth
Q. Okay. Do you realize that your failure to report your involvement, even though you only witnessed the event in a major force incident, such as this, is a serious violation of the Sheriff Department's force policies?

Romero
A. Well I--I realized that, you know, after my floor sergeant approached me and told me about it.

Nemeth
Q. Who was that?

Romero
A. Flannery.

Nemeth
Q. And when did he approach you and tell you about it?

Romero
A. Well he told me--he goes, "Weren't you a witness to a force, whatever caper?" And I said, "Sure." And he goes, "How come you didn't notify anybody?" So and then I--

Nemeth
Q. When was this that he approached you? From today, how long ago back?

Romero
A. Oh, this was like, this was like after the incident, like from today, it was--it was closer to the incident, you know.

Nemeth
Q. Okay. How, how long after the incident?

Romero
A. I don't remember, maybe a couple days.

Nemeth
Q. And, and how did he learn of it?

Romero
A. I don't know, I didn't ask him.

Nemeth
Q. He just approached you and said, "I heard you witnessed a force incident, how come you didn't tell somebody?"

Romero
A. Right. Right.

Nemeth
Q. And, and had you been interviewed by Sergeant Hamilton or anybody at all?

Romero
A. Not at that time, no.

Nemeth
Q. Okay. And how about the other three deputies you were with?

Romero
A. I don't know I can't--I can't speak for them, I don't know if they--

Nemeth
Q. You mean you didn't talk to them?

Romero
A. Oh sure I talked to them, but I don't know what kind of--I didn't talk to them about what they did, what their, you know, their actions were after the incident was over.

Nemeth
Q. You didn't ask them? Did you write something? Did you talk to the watch commander anything like that?

Romero
A. No, I don't remember talking to the watch commander and I don't remember talking to them about whether or not they wrote something or not. I can't--I don't remember talking to them about that.

Nemeth
Q. Pretty--pretty insignificant thing to you, huh?

Romero
A. No. It's not insignificant, now. I mean, I knew after I had done it, that I had, you know, basically screwed up. I mean I knew that then--I mean it's not insignificant. But I mean, I can't go back and change it, you know, I screwed up I can't, I can't change it now.

Nemeth
Q. Well what you can do is, is tell the whole truth about the event, okay. Rather than stick to the company line or stick to whatever story has been told in the past. That's what you can do to fix this.

Romero
A. Well, I mean, like I said I don't know what company line or, you know, I mean, when we came to the academy they, they told us all about you know, what you see is--you got to--you got to say it and that's basically what I'm doing. I mean I'm telling you what I saw and I mean, just like when I got investigated before also, they, they, you know, they try to tell you things that, you know, "Are you sure you didn't see this, are you sure you didn't see that." And I'm sure I didn't see that.

Nemeth
Q. When did you get investigated before?

Romero
A. By Criminal Investigations.

Nemeth
Q. For what?

Romero
A. For the same incident. I'm talking about--

Nemeth
Q. --But I'm just saying--

Romero
A. --the same incident.--

Nemeth
Q. --when you--you weren't being investigated--

Romero
A. --Oh no.--

Nemeth
Q. --you were being interviewed.

Romero
A. Well interviewed, interviewed, yes.

Nemeth
Q. Okay. Now you're being inves--now you're a subject. Before you were just being interviewed as a witness, okay. See, the, the difference is, is at that point you were a witness to a crime, a reported crime. Where as now you're, you're a subject to potential discipline on the Department as a result of your--as you just admitted violation of Department policy. Do you understand the difference?

Romero
A. Yes.

Nemeth
Q. All right. The--so how long do you think you were in module 4400 all together then?

Romero
A. Maybe, I don't know, maybe about ten minutes, maybe less than ten minutes.

Nemeth
Q. Less than ten minutes total?

Romero
A. Yes.

Nemeth
Q. And you think you were in the booth for about half of that time, five minutes?

Romero

A. Yeah, that's it.

Nemeth

Q. And, and you think the force thing lasted about five minutes, is that about right?

Romero

A. Probably, yeah. Probably less than that. I'm not too sure.

Nemeth

Q. So you talked to Kluth, Sloan was on the phone. So did you talk to him at all after the force incident?

Romero

A. No. Not, not one on one or...

Nemeth

Q. And how about [redacted] or whatever?

Romero

A. Um, no.

Nemeth

Q. Didn't talk to him at all?

Romero

A. No.

Nemeth

Q. When was the last time you talked to [redacted] about this incident?

Romero

A. That day.

Nemeth

Q. You haven't talked to him for a year?

Romero

A. I haven't talked to them, either of them, I mean, any of them since then.

Nemeth
Q. You haven't talked to any of them since then?

Romero
A. No.

Nemeth
Q. How about Broad, Kammer or Barrett?

Romero
A. The last time I talked to him was probably after we were interviewed by a--by criminal investigations.

Nemeth
Q. And when you say him, who are you referring to?

Romero
A. When I talked to them, to--

Nemeth
Q. --You talked to all three of them after?

Romero
A. Sure.

Nemeth
Q. And--the day after or the same day?

Romero
A. I think, I think it was that same night. It was the same night.

Nemeth
Q. You mean you talked to them here at work?

Romero
A. Yes.

Nemeth
Q. What you were all working that same night?

Romero
A. Yes.

Nemeth
Q. What did you say when you talked to them?

Romero
A. Basically we talked about the interview itself. Just you know.

Nemeth
Q. --Talked about what was said--

Romero
A. --what was said, what was asked, you know, "What did they ask you?"

Nemeth
Q. Did Sergeant Hamilton ask you not to discuss your interview with anyone after?

Romero
A. I can't remember--I think he did, I can't remember.

Nemeth
Q. Well, I have a transcript of your interview and he did.

Romero
A. Okay.

Nemeth
Q. And did you tell him, yeah you would, you would not discuss it with anybody?

Romero
A. Yeah.

Nemeth
Q. Yeah, that's what you said in the interview.

Romero
A. Well, we didn't discuss--I mean, we didn't sit there and discuss the incident, we just asked them about the questions, how was it, how, you know, how did they sit you down, what, what happened, you know, I told them--

Nemeth
Q. --You don't, you don't think that's discussing the interview?

Romero
A. Well, I, I mean--we didn't talk specifics, we just--he just asked me how I felt about, you know, the interview and--I mean I figure when they tell me don't talk about the incident, that means don't talk about what you said on the tape recorder, what you, so I didn't--you know, we just talked about how I felt in the interview, sitting down on this couch and stuff like that. That's how I took it when he said don't talk about the incident and don't talk about the interview.

Nemeth
Q. So, what did you say?

Romero
A. To who, the deputies?

Nemeth
Q. Yes.

Romero
A. Well, the only thing I told them was that during the interview I just felt somewhat intimidated 'cause I was sitting down on this couch and the couch kind of goes down real low and they were sitting right here, I don't know--

Nemeth
Q. --You were in the captain's office?

Romero
A. Yes.

Nemeth
Q. You weren't being put on the same level like we put you in a chair?

Romero
A. Right. Right.

Nemeth
Q. You don't feel intimidated now do you?

Romero
A. No, not right now.

Nemeth
Q. You telling us the truth right now?

Romero
A. Yes.

Nemeth
Q. Sergeant Gjendem...

Gjendem
Q. Yes, I have a couple of questions. (A lot of movement, papers shuffling) Okay. At some point there's eight of you down--there's eight of you down there in the--eight deputies down there inside the dorm, module 4400. Who was the first person to leave?

Romero
A. I can't remember. I couldn't tell you, I.

Gjendem
Q. And you were there about ten minutes?

Romero
A. Yeah, maximum. Less.

Gjendem
Q. Was a sergeant there?

Romero
A. No.

Gjendem
Q. Did it ever come to your mind to tell Barrett, who wasn't doing anything, to get a hold of a sergeant? Get him over here?

Romero
A. No, it didn't cross my mind.

Gjendem
Q. It didn't cross your mind?

Romero
A. No.

Gjendem
Q. Is it--are most force incidents investigated by somebody?

Romero
A. Sure.

Gjendem
Q. Who usually does them?

Romero
A. The sergeant.

Gjendem
Q. This fight, it was a terrible fight wasn't it?

Romero
A. Yes.

Gjendem
Q. It was ugly. A lot of punching, a lot of hitting.

Romero
A. Yes.

Gjendem
Q. A lot of screaming, a lot of yelling and nobody called the sergeant? And you're watching this go on for five minutes, your watching this fight for five minutes and nobody called the sergeant? How far away is the 4th floor sergeant's office from 4400?

Romero
A. Um.

Gjendem
Q. How many feet?

Romero
A. It's about maybe 100 maybe, maybe more.

Gjendem
Q. How many seconds away running?

Romero
A. About two, one, I mean two, three seconds.

Gjendem
Q. Two or three seconds? He's fast. That sergeant could have been there in two or three seconds, right?

Romero
A. I don't know. I don't know if he's that fast or not, but you know, I don't, I don't even know if he was in his office.

Gjendem
Q. Well he could, he could have been there in less than five minutes though?

Romero
A. Oh yeah, that's, that's--sure.

Gjendem
Q. And nobody took the initiative to call over there?

Romero
A. No. I guess not.

Gjendem
Q. Why?

Romero
A. I don't know. Personally, I was--

Gjendem
Q. --Watching the door.--

Romero
A. --I was watching the, the incident take place, I mean it didn't cross my mind, get a hold of a sergeant.

Gjendem
Q. You were just kind of holding the door there weren't you?

Romero
A. Yes.

Gjendem
Q. Was Barrett out at the main door?

Romero
A. I, I couldn't tell you if he was out holding the main door or if he had walked in a little bit.

Gjendem
Q. Were you there when the sergeant got there?

Romero
A. No.

Gjendem
Q. You had already left?

Romero
A. Yes.

Gjendem
Q. And you said you went back upstairs with?

Romero
A. I don't remember. I said I didn't remember. I went up and I don't remember if they came up behind me or not.

Gjendem
Q. Okay. Did you see anybody else there, besides the eight of you?

Romero
A. No. Just the inmate on the--in the shower.

Gjendem
Q. Okay. Did you ever see any other deputies come down?

Romero
A. No.

Gjendem
Q. No other deputies?

Romero
A. No.

Gjendem
Q. You didn't see the sergeant? Who was the person that had the wisdom to say, "That's enough?"

Romero
A. I don't know. I--I--

Gjendem
Q. --Was it you?

Romero
A. Well I--I don't think anybody said, "That's enough." No--no--I don't remember what--

Gjendem
Q. --Well, somebody there said, "That's enough."

Romero
A. Well, I don't know who said it. It wasn't me.

Gjendem
Q. Well, who made the decision to stop hitting this guy?

Romero
A. I guess once they cuffed him and--it was a--I mean, that's what you're, that's what you're trained, as soon as an inmate's cuffed and you got him, you got him under control, that's enough. That's it.

Gjendem
Q. You don't remember who said, "That's enough?"

Romero
A. No.

Gjendem
Q. You don't remember if Kammer went back up with you?

Romero
A. No, I don't remember.

Gjendem
Q. Going back to your other interview here. (Pages being turned) (Long pause) Have you been telling us the truth today, Romero?

Romero
A. Yes.

Gjendem
Q. Sergeant Hamilton asked you a question when you were interviewed in December, 1994. He says to you, he says, "Let me ask you something and don't take it the wrong way, but sometimes I'm blunt." He asked you this question. "If a deputy, if a deputy punched or kicked this inmate would you tell us?" You said, "If he did it, if he did it wrong, I mean if it was wrong doing it." Then he said--Sergeant Hamilton asked you, "Just asking if he punched him or kicked him would you tell us?" And your answer was, "Possibly." Does that mean that you were possibly telling the truth last time?

Romero
A. I told him everything I saw.

Nemeth
Q. Do you remember saying that?

Romero
A. No, I don't remember saying that. I don't even remember him asking me that.

Nemeth
Q. Okay. There's a--

Romero
A. --Well--

Nemeth
Q. --tape that--

Romero
A. --Well, I'm sure he asked me if it's on paper, I'm sure he asked me, but I don't remember.

Nemeth
Q. Okay. I guess what we're trying to get to is what was your thought process when you--when he asked you, "If you saw somebody kick and inmate would you tell us?" And you said, "Possibly." What--what were you thinking of? What would be a possible reason that you wouldn't tell?

Romero
A. I don't know what I was thinking, when I said that. I don't--I mean...

Nemeth
Q. Well, can you think of a possible reason--

Romero
A. --No, there's no--

Nemeth
Q. --that you wouldn't--

Romero
A. --possible reason. If an inmate gets kicked, I mean there's, I mean there's no reason--unless the deputy is fighting for his life and he's got to do whatever it takes to get out of that situation, then yes. You know whatever it takes, I mean he's got to kick, bite, scratch then, yeah that's maybe what I was thinking, I don't know. But I mean that's--

Nemeth
Q. --What does that have to do with whether or not your--you decide to tell somebody about what you saw?

Romero
A. Oh, well that has nothing to do with it.

Nemeth
Q. 'Cause that's the question that you were asked.

Gjendem
Q. That's the question that he asked you.

Romero
A. I don't know. I don't know, maybe I was, maybe I was like--I don't know what I was thinking. Maybe I was thinking he said maybe if--is there a reason or I mean, would there be a reason for you to kick an inmate? I mean, I don't know what I was thinking then, I can't say.

Nemeth
Q. So you're saying you, you possibly didn't understand the question? And that's why you gave that answer?

Romero
A. Well, I--I'm sure I--I--oh, maybe yeah I guess, I mean I'm sure I understood the question, I just don't know what I was thinking. Maybe I was--I don't know. I mean maybe--like I said I was--that--that time when I was interviewed I was pretty nervous. I was intimidated.

Nemeth
Q. Are you nervous this time?

Romero
A. I always get a little nervous, but not...

Nemeth
Q. Okay. I mean you're not going to come back and say at some later point you were so nervous, that's why you couldn't think to tell us the truth?

Romero
A. Oh, no.

Nemeth
Q. Or that's why you forgot to mention something?

Romero
A. No.

Nemeth

Q. I want to make sure we give you every opportunity to tell us what you know about this event.

Romero

A. Right.

Nemeth

Q. Okay. And so far have you told us everything you know?

Romero

A. Yes.

Nemeth

Q. You know, speaking of your past interviews, I have a question about the one that, when you were interviewed by Hamilton in January of this year. Do you remember that interview?

Romero

A. I--I remember being interviewed by him.

Nemeth

Q. Okay. And did you--do you remember saying that--that you were asked why, why you thought an inmate said something. You said, "Well, 'cause that's how these inmates--that's how these inmates--that's the side they take. They take each other's side, just like you said. Deputies back each other up, inmates will back each other up. I told you that's what I saw. By the time I got in here, I don't recall anybody hitting him." Well, what you've told us is that you do recall people hitting him. (Tape ends). Conclude this interview. Okay, we're on side two of tape two. This is 008383. Interviewing Subject Deputy Cesar Romero. Ernie?

Gjendem

Q. Yeah. Getting back to that one inmate that was inside the, the shower down there, a couple of deputies, including yourself, told that inmate to turn around and face the wall. What was the purpose for having him turn around?

Romero

A. Because, you know, when you're taking...

Gjendem
Q. If this is such a righteous force case, as you've tried to explain to us, why wouldn't you want another witness? Explain that to me?

Romero
A. I guess, yeah, I guess he's, I mean, you're right, I mean if you look at it that way, you have another witness who can, you know, vouch for what the inmate did to, you know, be getting hit like that, what, you, what happened in the whole incident, but, from my experiences, being up on, on 9000 floor, you have inmates in the hallways. When you have an incident, you want to make sure everybody's either out of the hallway or not looking, or whatever, because more inmates can get involved in that incident. I mean, obviously the inmate was locked down, he was behind the showers but I mean, I don't know, maybe it's just natural reaction, "Turn around, face the wall, you haven't," you know, "it's none of your business," type-deal, I mean.

Gjendem
Q. That was a nat-, natural reaction on your part to tell him to turn around?

Romero
A. I mean, that, well, yeah, that happens up on 9000 all the time. You want to clear them out of the hallway, because you don't want...

Gjendem
Q. Because they're a threat in a hallway.

Romero
A. Sure.

Gjendem
Q. But this guy wasn't a threat.

Romero
A. Exactly.

Nemeth
Q. So, your argument doesn't make sense anymore.

Gjendem
Q. Yeah.

Romero
A. I mean, you're right, I mean, if you look at it from point, you have another witness but I think most deputies look at it, as you know, "It's none of your business," type-deal. It's, "We're dealing with this inmate, turn around and face the wall." I mean, plain and simple. That's, I mean, that's what I can tell you, you know?

Gjendem
Q. That's the best you can do?

Romero
A. What do you mean, the best I can do?

Gjendem
Q. When the deputies, I'm talking about Kluth, [redacted], [redacted], and Sloan, were down there with the inmate on the concrete down there, could one of them have kicked that inmate, and you not noticed which deputy it was? Could that have happened?

Romero
A. And you're saying I saw somebody kick him, I just didn't know what leg it was, or what fist it was, or...

Gjendem
Q. You didn't know, you didn't know which deputy did it?

Romero
A. No.

Gjendem
Q. You didn't?

Romero
A. No. I didn't see no feet, no hands, no knees.

Gjendem
Q. You didn't see no hands?

Romero
A. He said he asked me earlier had I seen the inmate grab his testicles? I didn't see no feet, no knees, no nothing reach towards his testicle area.

Gjendem
Q. I wasn't talking about kicking the testicle area, I was just talking about kicking him.

Romero
A. Oh, well, I mean, bottom line is we're getting to the testicle area, isn't it? I mean...

Gjendem
Q. No, I wasn't there at all.

Romero
A. ...oh, okay, well, then, no I didn't say...

Gjendem
Q. Could one of the deputies kick that inmate and you not know which deputy did that?

Romero
A. No.

Gjendem
Q. Why?

Romero
A. Because I would have saw a leg flying in the air, you know, towards kicking him, and I didn't see that.

Gjendem
Q. You didn't see that?

Romero
A. No.

Gjendem
Q. That's all, I got.

Nemeth
Q. Okay. When you got up after the, after the incident happened, you, Barrett, Broad and Kammer went back where?

Romero
A. I, well, we went back up to 9000, and I believe after that, finished doing some work, and then I went back to one of the back doors to do my chow relief.

Nemeth
Q. Okay, so all four of you went back to 9000?

Romero
A. Yes.

Nemeth
Q. And how long were you all together until you went to your chow relief?

Romero
A. Well, I don't know how long we were together, I mean.

Nemeth
Q. About how much time till you had to do your chow relief?

Romero
A. Maybe 15, 10, 15 minutes maybe. I don't recall, sir. I don't recall the specific, specific time, but it's about 10, 15 minutes, maybe.

Nemeth
Q. And, did you talk about this incident amongst the four of you?

Romero
A. I don't know if it was the four of us, who did I, I remember, I remember telling talking to, was it Barrett or Broad, I think it was Barrett, but I don't think it was all four of us sitting there, like in a group-type thing. I don't know, I don't remember all four of us standing together, you know, talking about the incident.

Nemeth
Q. It was you and Barrett, you don't remember Kammer being there? You, Barrett, and Broad, you don't remember Kammer being there, is that what you're saying?

Romero
A. I remember, really, I, I, remember me and Barrett talking about it, I don't even really remember Broad being in there that time. I'm positive it was me and Barrett, and I can't say if Barrett or Broad was standing there, or Kammer was standing there, But, I know we didn't stand like, like in a, like a little circle or something and talk about it.

Nemeth
Q. Okay, where, where were you and Broad talking about it at?

Romero
A. Barrett?

Nemeth
Q. I mean Barrett.

Romero
A. We were out in front of the booth area.

Nemeth
Q. 9000 booth area?

Romero
A. Yes.

Nemeth
Q. Okay, and what were you discussing?

Romero
A. We just, dis-, I mean, discussed, I just told him, "Did you see all that blood?" I mean, 'cause that was the main thing that stuck in my head, was all the blood that was on the floor.

Nemeth
Q. And what did he say?

Romero
A. He said "Yeah, there was a lot of blood." And then, he just started wondering, "Well, I kind of wonder what happened, I wonder what," you know, that's basically it.

Nemeth
Q. Okay, and did you discuss what you should do as a result of what you had seen, all that blood?

Romero
A. No.

Nemeth
Q. Not at all?

Romero
A. No.

Nemeth
Q. Did you ask him if he was gonna report what he saw?

Romero
A. No.

Gjendem
Q. Did he ask you that?

Romero
A. No.

Nemeth
Q. What else did he talk about besides all the blood?

Romero
A. And wondering what happened, what, what, what caused all that, basically.

Nemeth
Q. What caused the incident to begin, you mean?

Romero
A. Sure.

Nemeth
Q. Okay. And where were Broad and Kammer?

Romero
A. When we got up to 9000?

Nemeth
Q. At this point, where you're talking with Barrett?

Romero
A. Oh, I don't know, I don't know. I don't know if they were, they were standing next to us, or down the hall, or what, I don't remember.

Nemeth
Q. Alright. Well, going back to when you got to the module, when you first arrived, you're first one in the door, so, you told us you saw the inmate, and was there the blood there then?

Romero
A. I'm sure it was, I didn't really pick up on it, 'cause he was laying, he was laying down on it, basically. I didn't pick up on blood, I just saw the inmate.

Nemeth
Q. Well, when did you pick up on the blood?

Romero
A. When they turned him over, after they hobbled him, and they turned him over, that's when I saw all the blood, it was like underneath his body, that's when I saw the blood.

Nemeth
Q. Do you know where he was bleeding from?

Romero
A. No. But, he had blood on his face, and on his shirt.

Nemeth
Q. And, did he have, did he have blood on his jumpsuit?

Romero
A. Yeah.

Nemeth
Q. And you said when they rip hobbled him, tipped him on his side, which side did he, was he placed on?

Romero
A. His right side, (inaudible).

Nemeth
Q. So, it's...

Romero
A. Towards his right, he was leaning on his right side.

Nemeth
Q. Leaning on his right shoulder, and right leg and everything? And where was the blood?

Romero
A. It was...

Nemeth
Q. In relation to his body?

Romero
A. Well, if he was leaning on his right, it was right in front of his body.

Nemeth
Q. Right in front of his face?

Romero
A. Sure. He was leaning, the blood was out front.

Nemeth
Q. How much blood was there?

Romero
A. It was a lot of blood.

Nemeth
Q. Was it in a puddle?

Romero
A. Yeah.

Nemeth
Q. How big was the puddle? Was it roughly circular puddle?

Romero
A. Yeah, it was circular, I'd say, somewhat circular.

Nemeth
Q. What was the diameter, approximately?

Romero
A. I don't know, I couldn't, it was pretty, I mean...

Nemeth
Q. Can you motion with your arms about how big you think took up a space?

Romero
A. Well, I don't know if it went out at an angle, I think it did more of his body type, you know, it got his body so it came down more, I'd say probably from, from his head obviously, to I'd say probably his chest area or so.

Nemeth
Q. Okay, so that would be one dimension from the top of his head, the top of his head...

Romero
A. Right.

Nemeth
Q. ...forehead area?

Romero
A. Right, from about his head, forehead area.

Nemeth
Q. Forehead area, down to about mid-chest?

Romero
A. Sure.

Nemeth
Q. Okay.

Nemeth
Q. And, then, so that's about this much distance, is that about right?

Romero
A. Right.

Nemeth
Q. So, what would you say, it's about two feet?

Romero
A. About two feet.

Nemeth
Q. And then how about width wise?

Romero
A. I don't know, about maybe a foot and a half, two feet.

Nemeth
Q. Well, if it was a circle about two foot in diameter, or a square, two by two?

Romero
A. Yeah.

Nemeth
Q. Quite a bit of blood, huh?

Romero
A. Sure, it was.

Nemeth
Q. And you didn't notice that until he was turned on his side?

Romero
A. Right. That's when I, that's when it really stood out, I didn't notice it before.

Nemeth
Q. Do you know how he was injured to cause that much blood to leak out of him?

Romero
A. No.

Nemeth
Q. Did, did you see anybody hit him in his head?

Romero
A. No.

Nemeth
Q. Did you see anybody grab his hair and bop his head on the concrete?

Romero
A. No.

Nemeth
Q. So, you don't know how the injury happened that would cause all the blood.

Romero
A. I don't even, no, I mean I couldn't even absolutely say he was bleeding from his head area, I just didn't, there was a lot of blood, I didn't know where it came from.

Nemeth
Q. Okay. Those are the questions we have for you. We've talked pretty much at length about this, I've given you every opportunity and addressed it in every way I know how to convince you to tell us everything you saw, and to tell us the truth about the incident, haven't I?

Romero
A. Yes.

Nemeth
Q. And have you done that?

Romero
A. Yes.

Nemeth
Q. You have, okay. There is nothing else that, that happened that you saw in terms of the deputies using force on this inmate?

Romero
A. No.

Nemeth
Q. And, do you know how long this event had been occurring before you got there?

Romero
A. No. I assumed not too long, but I can't say for sure.

Nemeth
Q. Why do you assume not too long?

Romero
A. Well, I don't know, I, 'cause normally, I mean, you get in a fight with an inmate, you put it over the radio right away, or it comes out right away.

Nemeth
Q. Did this fight (clears throat) come out on the radio?

Romero
A. I didn't hear it on the radio, I didn't carry a radio, so I don't know. I don't carry a radio.

Nemeth
Q. How did you learn of it again?

Romero
A. Over the P.A. system.

Nemeth
Q. On 9000?

Romero
A. Yes.

Nemeth
Q. And, when an, when an inmate goes off on a deputy, and by that I mean, when an inmate uses force against a deputy, grabs a deputy, starts wrestling with a deputy, fighting with a deputy, do you think that inmate needs to be taught a lesson not to do that again?

Romero
A. I mean, no, I don't know what you mean by having describe "taught a lesson," I mean, what's, what's...

Nemeth
Q. Well...

Romero
A. ...you know, what are you talking about, I mean, what are you trying to say about "taught a lesson?"

Nemeth
Q. You have no idea what I'm talking about?

Romero
A. Well, I mean, I have an idea of what you're talking about, but I, I mean...

Nemeth
Q. Well, tell me...

Romero
A. ...I don't know what...

Nemeth
Q. ...what you think I'm talking about?

Romero
A. Oh, I'd assume you're talking about, you know, besides hitting the deputy or whatever, you got to send them to a hospital, or something like that, you know?

Nemeth
Q. Yes, that's exactly what I'm talking about.

Romero
A. No, I don't know, I don't believe in that.

Nemeth
Q. You never heard that theory?

Romero
A. Oh, I've heard it...

Nemeth
Q. Discussed.

Romero
A. ...I've heard the theory, yeah, sure.

Nemeth
Q. You don't believe in that?

Romero
A. No.

Nemeth
Q. You think that's what happened in this case?

Romero
A. I don't know.

Nemeth
Q. You don't know?

Romero
A. I don't think so. I didn't, from what I saw, they, they were just hitting him.

Nemeth
Q. Well, we know they were hitting him, I mean, the man lost a testicle, and had nine stitches over his eye. What I'm saying is, do you think all that force was necessary?

Romero
A. From what I saw, sure.

Nemeth
Q. And why is that?

Romero
A. Because all I saw was them hitting him, trying to restrain him.

Nemeth
Q. Was, was the inmate hitting the deputies?

Romero
A. Well, the inmate was flopping around and, you know, trying to get loose, it appeared, so, I mean, you got to gain control of an inmate.

Nemeth
Q. Yeah, but gaining control and overcoming resistance is different than, than issuing 50, 60 blows that you've described to us already, isn't it?

Romero
A. Depends. I didn't know the circumstances of the inmate. If the inmates a, if the inmates a ding, I mean, those guys are, are crazy, I mean you can spray 'em, you can do whatever you want to them, and they're not gonna, it's not gonna stop 'em. So, I don't know the circumstance of that inmate, I don't know, I mean he's obviously he's on 4000, they have dings there, they have medical inmates, so.

Nemeth
Q. Uh-huh. So, let me make sure I understand this right. All you saw was the inmate flopping around. You didn't see him hitting the deputies, did you?

Romero
A. No. I saw him face down on the ground.

Nemeth
Q. Was he kicking the deputies?

Romero
A. No, because by, well when I started watching the incident, he Deputy Kammer had his leg, and probably Broad, they had his legs, so, no he wasn't kicking him.

Nemeth
Q. He wasn't kicking them, and he wasn't hitting him.

Romero
A. Right.

Nemeth
Q. And if he, if they've got his legs, he's somewhat restrained, correct?

Romero
A. Well, they haven't cuffed him yet, they couldn't they obviously couldn't get his hands to handcuff him.

Nemeth
Q. And, and how much force do you think that justifies?

Romero
A. I don't know, I mean, you need to do what you have to do to get the inmate handcuffed and restrained, and the inmate wasn't handcuffed, so.

Nemeth
Q. Okay, let me expound on that. You need to do what you have to do to get him handcuffed.

Romero
A. Right.

Nemeth
Q. Is there any limit to that?

Romero
A. Oh, sure there is. You can't give them head blows, and stuff like that, but, I mean, you know, if you got to hit him, and, with, if you got to punch him in the ribs, or punch him in the back or whatever, you know, to apply some pain, for him to finally give up, sure you have to, you have to do it.

Nemeth
Q. Okay. Well, I realize you said you didn't know where the inmate was bleeding from, but I'm gonna tell you, it was from a head wound. He, you just said in your opinion that it's not

justified to give him a head blow, apparently one was struck due to his injury. So, do you think that was a little excessive?

Romero
A. Again, I don't know what happened before the incident. I mean, who knows a thing what the inmate did. I mean, the inmate could have turned around and hit the deputy, and, you know, could have been on one on one, and the deputy felt he had to do it, I mean, there's a lot of, you know, variables that can go in there, in an incident like, so. I don't know what happened before the incident happened. But, if he was just laying there, if they just took him down and he was just laying there, no need to hit him in the head.

Nemeth
Q. Did you see anybody do that while he was laying there?

Romero
A. No.

Gjendem
Q. That public address announcement you heard up there on 9000, where did that come from?

Romero
A. From the P.A. system.

Gjendem
Q. Who put it out?

Romero
A. I believe it was either the person working the booth, or I'd, I'd assume it was the person working the booth.

Gjendem
Q. Which booth?

Romero
A. Nine control.

Gjendem
Q. Nine control?

Romero
A. Uh-huh.

Nemeth
Q. Do you remember who was working the booth that night?

Romero
A. No, I have no idea.

Gjendem
Q. Well, when you went back upstairs you were standing in front of the booth, weren't you?

Romero
A. Yeah, but I'm not gonna remember who was working the booth, I wasn't looking in the booth.

Nemeth
Q. Hernandez, was he working the booth that night?

Romero
A. Could have been, yeah.

Nemeth
Q. Well, if the in-service says...

Romero
A. Well, then, yes he was working.

Nemeth
Q. Is that what you remember?

Romero
A. I don't remember who was working the booth.

Nemeth
Q. You don't remember, but you remember the person working the booth putting it out over the P.A.?

Romero
A. I just said I did, maybe it came from the P.A. system on the floor, on the floor, or it came out over the all call, which is main control, but I heard it over a P.A. system...

Nemeth
Q. Uh-huh.

Romero
A. It could have came over 5000, when you're standing right there, you can hear 5000, you can hear 4000, from, from right there, so.

Nemeth
Q. So, now you're, now you're saying it could, not only, know you're saying not sure it came from the speaker above your head, is that right?

Romero
A. Well, it was in, it's not above my head. The speakers out in the hallway, and I'm out here in the control booth, and the speaker's not here.

Nemeth
Q. Okay, so what you're saying now, you were in the control booth when this thing...

Romero
A. No...

Nemeth
Q. ...started?

Romero
A. No, I was outside the control booth, right outside the door.

Nemeth
Q. Okay, so what you're saying now is you're not sure if you heard it from the floor you were standing on, or one or two floors below you, is that right?

Romero
A. That's (inaudible).

Nemeth
Q. I'm sorry, I don't think the tape got that.

Romero
A. Yeah, that's about right.

Nemeth
Q. So, you don't know how you got the notification to go then to module 44 or 4000 in the first place, do you?

Romero
A. Well, yeah, I heard it, I heard it over the P.A. system. That's why when we ran down, I didn't know where to go, I was like, I ran, in fact, we ran down to 5000, and looked, and nothing seemed to be going on, so then we ran down to 4000, and we got there, and that's when the deputy in the booth pointed us to 44.

Nemeth
Q. Who was that?

Romero
A. I don't have no idea.

Nemeth
Q. Deputy Howard?

Romero
A. It could have been.

Nemeth
Q. What did you hear exactly on this P.A or whatever it was?

Romero
A. Well, well, as soon as the 415 deputies or whatever are...

Nemeth
Q. You just heard 415 deputies involved?

Romero
A. I mean that's what it, I mean, that's what I'd assumed, I mean, you know, you...

Nemeth
Q. Well, you were leading the pack, right, you were the first person...

Romero
A. Yeah, I was the first person running down, yeah.

Nemeth
Q. How'd you know where to go?

Romero
A. I didn't, that's what I said...

Nemeth
Q. Well, you ran down to four, right?

Romero
A. I just...

Nemeth
Q. You knew to go to four?

Romero
A. Well, I ran down to five, and I didn't see anything, so, there's nowhere else to go but down, so I went down to four. Once I got down to four, she pointed me over to, I guess, Howard, pointed me over to forty-four, and I ran in there.

Nemeth
Q. Did you ever see a senior show up?

Romero
A. No.

Nemeth
Q. Sergeant?

Romero
A. No.

Nemeth
Q. You were there for a total of about ten minutes and gone, huh, is that what you said earlier?

Romero
A. No, I said about that, maybe less.

Nemeth
Q. Okay, and then you already said the incident was going on when you got there, correct? Three deputies were on...

Romero
A. Yes.

Nemeth
Q. ...the guy when you got there?

Romero
A. Yes.

Nemeth
Q. Do you know how long it had been going on before you got there?

Romero
A. I have no idea.

Nemeth
Q. Of the ten minutes that you describe you were there total, I think earlier you said you believed the altercation was occurring for five minutes, approximately five minutes, is that right?

Romero
A. Around there, probably less. Around there.

Nemeth
Q. Okay, and what are you using as a mark in your mind to say the, the force that was concluded?

Romero
A. The fact that he was handcuffed and hobbled.

Nemeth
Q. Okay, so. Oh, not just handcuffed, but handcuffed and hobbled. Is when the incident ended in your mind, is that right?

Romero
A. Sure.

Nemeth
Q. When the inmate was just handcuffed, was he still resisting?

Romero
A. Yeah, he was trying to move, you know, his legs were being held, yeah he was still trying to wiggle.

Nemeth
Q. Still trying to wiggle? He was handcuffed behind his back, laying face down. Two deputies holding his legs, or one deputy?

Romero
A. I can't remember.

Nemeth
Q. Can't remember, it was one or the other, though?

Romero
A. One or the other.

Nemeth
Q. And, he's still wiggling around, are deputies using force on him at this point?

Romero
A. At this point, I know they were trying to get the hobble, I don't know who had the hobble, but they were trying to get the hobble, and after they grabbed the legs, they hobbled him, so I don't, I don't recall them, after they handcuffed them, I don't recall them hitting him or anything like that. They were trying to look for the hobble, who had the hobble.

Nemeth
Q. So, you don't recall them hitting him?

Romero
A. No.

Nemeth
Q. Where was Sloan at that point?

Romero
A. He was still there, he was still in the same spot.

Nemeth
Q. Same position?

Romero
A. Yeah.

Nemeth
Q. And, how about [redacted]?

Romero
A. Same position. I don't know, I don't remember where he was at.

Nemeth
Q. Well, you said earlier he was on his right buttock.

Romero
A. Right, oh I know that, but, I mean, after he was handcuffed, I don't remember if he moved down or moved away, or what he did?

Nemeth
Q. Is it possible he kicked him at that point?

Romero
A. I would have, I mean, at that point I think I would have saw somebody kick him, but I didn't see anybody kick.

Nemeth
Q. Is there some point earlier that you might not have saw it when you were there?

Romero
A. No, not when I was there.

Nemeth
Q. Prior to you there, obviously, right?

Romero
A. Yes. Obviously.

Nemeth
Q. Okay, so he's handcuffed, one or two deputies have his legs secured, he's wiggling, what's Sloan doing?

Romero
A. I don't know, they all tried to hobble restrain him after this, so, I mean, they're all up around his leg area, trying to get his legs so they can hobble him, and get him, I mean, I'm not sitting there watching one deputy...

Nemeth
Q. You don't know...

Romero
A. ... I mean...

Nemeth
Q. ...you don't know what each of them were doing at that point?

Romero
A. I mean I'm not watching each one of them, so...

Nemeth
Q. Okay, was anybody punching him at that point?

Romero
A. Not that I remember, no.

Nemeth
Q. So, about five minutes of force plus whatever time had been going on ahead of that, right?

Romero
A. Right.

Nemeth
Q. Five minutes before he was rip hobbled, five minutes that you saw, right?

Romero
A. Right.

Nemeth
Q. And then you were there another five minutes, and there's still no senior or sergeant at that point.

Romero
A. I wouldn't say five minutes, I'd say probably ...(inaudible) less than ten or, I don't know.

Nemeth
Q. Five is less than ten.

Romero
A. Well, I mean, no, overall, total, everyday.

Nemeth
Q. That's where we're at, five minutes of force, five minutes after, that's ten minutes.

Romero
A. Alright.

Nemeth
Q. I mean, or is it less, I don't know.

Romero
A. It was probably less, I don't think I was there for five minutes and just kind of estimating, trying to guess, basically.

Nemeth
Q. Okay, but...

Romero
A. There was still...

Nemeth
Q. ...there was still no sergeant or senior there, right?

Romero
A. Right.

Nemeth
Q. In fact, you had already gone along with the other three guys you came with, and, and you still didn't see any sergeant or supervisor respond, right?

Romero
A. Right.

Nemeth
Q. Did any other deputies come in after the four of you were there?

Romero
A. No that I seen.

Nemeth
Q. Not that you saw. So, it was just eight people, and then four left, and four were there, and that was it. And you were already gone when the supervisors got there. So, it's obviously possible something happened after you left, too, isn't it?

Romero
A. Sure. It's possible.

Nemeth
Q. Okay, that's all the questions I have for you. Is there anything you want to add, this is your opportunity to, you know, make any statements or cover any ground that we haven't covered, or add anything that you feel is important that we haven't covered yet.

Romero
A. No.

Nemeth
Q. You don't want to add anything?

Romero
A. No.

Nemeth
Q. Okay, then we will conclude the interview, the time is 0410 hours. Just as an afterthought, briefly back on tape here, Deputy Romero, I want to order you on tape, okay, that you understand, you are not to discuss this incident. You are not to discuss what we asked you in this interview, or what you answered, you're not to discuss how you felt in this interview, in fact, you're not to discuss our presence here at all with anyone whatsoever, do you understand that?

Romero
A. Yes, sir.

Nemeth
Q. You're to have no contact regarding this incident, you have no contact, speak about this incident with anyone, and you're particularly ordered to refrain, except, you know, where you're required to by your duties to speak to Barrett, Kammer, and Broad. Okay. You've already told me that you have had no contact with the four deputies that have been [redacted], at this point, is that right?

Romero
A. That's right.

Nemeth
Q. Okay, do you see, well, a couple of these guys are on days, right?

Romero
A. All three of them are.

Nemeth
Q. All three of them are? Do you see them at all?

Romero
A. Rarely.

Nemeth
Q. Is there any need for you to contact them as part of your official duties or anything?

Romero
A. No.

Nemeth
Q. Okay, then, then don't contact them, don't call them at home, do you have their home phone numbers?

Romero
A. No.

Nemeth
Q. Don't call them, don't speak to them. Do we understand each other?

Romero
A. Sure.

Nemeth
Q. Okay. Alright, anything else? End the addition, it's 0412.

END OF INTERVIEW

ADMINISTRATIVE RIGHTS/SWORN SUBJECTS

I am **Sergeant John Nemeth** and this is SGT. ERNIE GJENDEM of the **Internal Affairs Bureau**, which is commanded by **Captain ~~Lewis~~** NORMAN L. SMITH

You are about to be questioned as part of an official Los Angeles County Sheriff's Department administrative investigation.

Do you have a Policy and Ethics Chapter of the Manual of Policy and Procedures? Yes [X] No [ ]
Are you familiar with its contents? Yes [X] No [ ]

You are specifically reminded that Policy and Ethics Section 3-01/040.70 requires that you make truthful statements and Section 3-01/040.75 requires that you make full and complete statements.

This investigation concerns: (Explain allegations /basic reason for investigation.) EXCESSIVE FORCE USED ON I/M [redacted]

If this were a criminal investigation any statements you made could be used against you in a court of law. Since this is an administrative investigation, neither your statements nor any information or evidence which is gained by such statements can be used against you in any subsequent criminal proceeding. However, these statements may be used against you in subsequent administrative actions.

You are being ordered to answer questions specifically related to the performance of your official duties and/or your conduct as related to your employment with the Department.

You have the right to remain silent, and you have the right to the presence and assistance of counsel. You are hereby notified that although you have the right to remain silent, failure to answer questions directly related to this administrative investigation may result in your discharge or other punitive action.

You have the right to have a representative of your choice, who is not involved in this investigation, present with you during your interviews. You may tape record this interview if you wish.

The above admonition has been explained to me and I understand its contents.

DATE: 11-01-95 FILE NO. 008383

SUBJECT: [signature] CESAR ROMERO [redacted]
(Signature) (Print)

INVESTIGATOR: [signature] JOHN A. NEMETH [redacted]
(Signature) (Print)

DEP. CESAR ROMERO
I.C.I.B. INTERVIEW 1-30-95

WITNESS INTERVIEW

CASE NUMBER 494-00023-2300-444

CESAR ROMERO

Hamilton
Q. Is January 30, 1995, we're here at Men's Central Jail getting ready to interview Deputy Cesar Romero, it's approximately 2334 hours, we're gonna be talking about a case that occurred here in Men's Central Jail on October 27, of 1994, in module 4400 on early morning shift. This case is being investigated under ICIB file number 494-00023-2300-444. Present in the room is Sergeant Ron Bell, and myself, Sergeant Eric Hamilton, and again, Deputy Cesar Romero. Okay, this is the second interview with Deputy Romero. Deputy Romero, were you working on October 27, 1994?

Romero
A. Yes.

Hamilton
Q. Where were you assigned?

Romero
A. 9000 roving patrol.

Hamilton
Q. Okay, did you have a chance to go down to module 4400?

Romero
A. Yes.

Hamilton
Q. Okay, can you tell us what happened when you went down there?

Romero
A. As I entered the module, you mean?

Hamilton
Q. Well, to start at 9000, did you have a chance to hear something over the P.A. system, or the radio in regards to a disturbance?

Romero
A. No. I was standing right outside the door or our control booth, and I didn't hear anything over the P.A. system or anything over the radio 'cause I don't carry a radio.

Hamilton
Q. Okay.

Romero
A. And basically, I was just following three other deputies that went down from the floor, me and Deputy Kammer, Broad, and Deputy Barrett. So, I walked down with them to 4400, and as we approached 4400, Deputy Barrett held the door open to enter the module. I walked in first, and Deputy Broad and Kammer followed me in.

Hamilton
Q. Okay.

Romero
A. As I entered 4400, to my right hand side, were 3 deputies holding down the inmate, which were Deputy [redacted], [redacted], and Kluth, and Deputy Sloan was holding the, the module door to the, to the booth, to the control booth. So, as I walked in, he asked me if I could hold the door for him, so since he had been there, he'd know, he knew what was going on with the caper, I figured sure, why not, so I went over, held the door for him, and let him help out the other three deputies, and as I helped him out, as he went over to help them out, he went over, grabbed the other leg, 'cause I believe Deputy [redacted], I believe it was Deputy [redacted] on one side of his leg, and Deputy Kluth, and Deputy [redacted] were in the upper torso area of the upper body, holding the upper body. The inmate was face down on the floor, and Deputy Sloan came over, grabbed the other leg, and that's when they, they held them together, hobble restrained him, the inmate, and that was basically it.

Hamilton
Q. Okay. What about the other deputies that were there? What were they doing?

Romero
A. The two deputies that came in with me?

Hamilton
Q. Yes.

Romero
A. As far as I know, they were, they were standing, they, they didn't, I didn't see them do anything, and I don't recall them, I don't recall them involving themselves in the incident.

Hamilton
Q. You don't recall them...

Romero
A. No. I just remember seeing those four deputies.

Hamilton
Q. Okay. Why did you go and relieve Deputy Sloan?

Romero
A. Because he had already been there, so I figured he already knew what was going on, so, and he asked me to hold the door for him, so I figured I'd hold the door for him.

Hamilton
Q. Okay, let me ask you something. When you walked in the door, were the deputies struggling with the inmate?

Romero
A. I wouldn't say struggling to the point where they were in danger. They were still trying to pin him down, the guy was already handcuffed, they were trying to hobble, hobble restrain him. So, they weren't in, I wouldn't say they were in danger. They were just trying to hold him down.

Hamilton
Q. So, you're saying when you walked in there, the guy was already handcuffed?

Romero
A. Yes.

Hamilton
Q. Are you sure about that?

Romero
A. I believe so, yes.

Hamilton
Q. You believe so, or are you sure about that?

Romero
A. Well, I can't say, I'm not, I can't say I'm actually 100 percent positive he was handcuffed, but I, I'm pretty sure he was. Either he was handcuffed or he was getting handcuffed, one or the other, but I'm not 100 percent positive.

Hamilton
Q. Okay, and you say that the deputies that came in with you, Deputy Broad and Kammer, and Barrett, they were just standing there.

Romero
A. Yes. Well, I didn't see them involved in the incident.

Hamilton
Q. What do you mean by that...

Romero
A. When I...

Hamilton
Q. ...what do you mean?

Romero
A. Well, when I walked in, I was holding the door, I looked down, I recall seeing the four deputies that were involved in the incident holding onto the inmate, but I can't, I don't remember seeing Deputy Broad and Deputy Kammer or Deputy Barrett jumping in and trying to help out or anything. I just don't recall them in the incident.

Hamilton
Q. Okay, how far where you away from the disturbance?

Romero
A. Not, not very far, I'd say maybe about 15 feet maybe.

Hamilton
Q. And you don't remember any of the Deputy Broad or Kammer grabbing this guy's legs?

Romero
A. No. I can't say I do.

Hamilton
Q. What did Deputy Sloan ask you when you walked in the module?

Romero
A. "Hold the door for me."

Hamilton
Q. That's all he said?

Romero
A. Yes.

Hamilton
Q. Are you sure he said that?

Romero
A. That, that's what I remember him saying to me, he said, "Hold the door for me."

Hamilton
Q. Anything else?

Romero
A. No.

Hamilton
Q. He didn't say anything else to you?

Romero
A. Not that I recall.

Hamilton
Q. Okay. Did you see any other inmates around there?

Romero
A. I saw one inmate inside, I believe it was the shower area,

which is right, right, in front of, in front of the inmate, while the incident was taking place, it was down from the bottom.

Hamilton
Q. Was he watching?

Romero
A. Yes, and matter of fact, I believe it was Deputy Barrett who kept telling the inmate to turn around and face the wall.

Hamilton
Q. Where was Barrett standing?

Romero
A. Right as you went to the little hallway area, to the, to the module. He was standing right in front.

Hamilton
Q. In front where?

Romero
A. Right in front of me. I was, as you walk in, you have like a little sally port area...

Hamilton
Q. Right.

Romero
A. ...inside the module, he was standing right, right in front of the sally port area, right to the, to the left of the incident.

Bell
Q. And the hallway comes in from the main door?

Romero
A. Right.

Bell
Q. He's standing right where it widens.

Romero
A. Right, exactly, and then it said, it took over on the right, took place on the right hand side. Deputy Barrett was standing

just, just a little bit to the side of them, and he kept yelling to the inmate, "face the wall", but that's the only inmate I saw there.

Hamilton

Q. Did you ever see, was the inmate watching you guys?

Romero

A. He kept turning around to watch the incident, but Deputy Barrett, and I'm not sure, I assume other deputies, cause I heard more people telling him to turn around and face the wall, face the wall, but he kept turning around once in a while watching the incident. That was the only inmate I saw that was there.

Hamilton

Q. Did you see anybody punch or kick this inmate?

Romero

A. No.

Hamilton

Q. Not by accident, not or the guy's resisting, or anything like that?

Romero

A. I didn't, I didn't see, I didn't see one punch, and like I said, the last time if that would have been me, I would have, I wouldn't have seen it, I would have hit him, cause they were still, you know, trying to pin the guy down, or, you know, trying to hold him down, and he seemed like he was still squirming around, so, I wouldn't have seen anything wrong with them hitting him, but, I, I did not see anybody hit him.

Hamilton

Q. Did you remember Deputy Sloan saying something to the effect that why don't you go get you some, or something to that effect, and you said, "No, that's okay, it's all over"? And he said, "Come over and relieve me, so I can go get me some", did you remember that?

Romero

A. I don't remember that.

Hamilton
Q. And, do you realize, do you know that if there was any other inmates in there?

Romero
A. Oh, that's the only, the only other inmate that I saw was the one that was sitting in the shower, that's the only inmate I saw in there.

Hamilton
Q. You didn't see one behind you guys?

Romero
A. Well, there wasn't one behind me, cause I was holding the door to the control booth...

Hamilton
Q. Okay.

Romero
A. ...so I know there wasn't...

Hamilton
Q. Okay, you didn't see any other inmate in there?

Romero
A. No.

Hamilton
Q. Do you realize that there was two other inmates that witnessed the entire event?

Romero
A. No, I didn't, I don't.

Hamilton
Q. You don't remember seeing anybody else?

Romero
A. No, I don't remember seeing anybody else.

Hamilton
Q. So, you don't remember Deputy Sloan telling you that?

Romero
A. No, sure don't. Cause, when I walked in the door, it was, it wasn't a long enough time for him to tell me, why don't you get you some, or, whatever he said, because I walked straight in, and as I was walking straight in, I looked over, and he told me, hold the door for me. So, I went over, held the door for him, and it wasn't long enough for him to tell me get you some, or whatever you said, or, you know, it wasn't that, it wasn't that long of a time between the time I walked in the, in the little hallway area, to when I held the door for him.

Hamilton
Q. How long would it take for somebody to say something like that?

Romero
A. I just, I'd assume longer than hold the door for me, I mean, he only, it was only about, I'd say by the time I got to, to the edge of the hallway, where it opens up, to when I held the door, it was, I could, I'd say it was no more than a second or two, so, I mean that's all I remember to tell you. I don't remember him saying, you know.

Hamilton
Q. Okay, where did Deputy Sloan go once he, you relieved him?

Romero
A. He went over to assist the other three deputies, Kluth, Sloan, and, I mean, yeah, Kluth, [redacted] and [redacted].

Hamilton
Q. What did he do?

Romero
A. He went over and controlled one of the legs.

Hamilton
Q. And, then, what did he do?

Romero
A. They hobble restrained the guy, put the, the hobble restraints.

Hamilton
Q. Who's they?

Romero
A. Deputy Sloan, Deputy Kluth, Deputy [redacted], and Deputy [redacted].

Hamilton
Q. So, all four of those Deputies put a hobble on one inmate?

Romero
A. No, I believe it was Deputy Kluth and Deputy Sloan who actually did the, the hobble restraint on the guy.

Hamilton
Q. How did they do it?

Romero
A. They tied his legs together, and then put them around his handcuffs.

Hamilton
Q. Okay, did they lift his legs up, did they spread his legs apart, did they pin his legs back, how did they do that?

Romero
A. They had his legs, his knees, put together, I can't remember if they crossed his knees or not, I don't believe they did. I think they just tied his legs, then they bent his legs back towards his, towards his buttocks area, and then tied it around the handcuffs.

Hamilton
Q. Was he resisting then?

Romero
A. From what I could, when, after they hobbled him, or before? Before they hobbled him, what I could tell was he was just kind of squirming around. I couldn't, I wasn't there, so I can't tell if he was, you know, trying to kick, or trying to do whatever, but from what I could see, it looked like he was still trying to move around.

Hamilton
Q. Let me ask you...

Bell
Q. Were you watching this from the door?

Romero
A. Yes. I was holding the door, and I was kind of standing off to the side.

Bell
Q. You're all of what, 8 feet away?

Romero
A. I guess, something like that?

Bell
Q. You can't tell whether he's trying to kick him or not?

Romero
A. Well, like, like I said, he was squirming around. I can't tell, the, the one of, the legs were being held, but I couldn't, I mean, I, from what I could tell, he wasn't, he wasn't kicking because they were holding him. But since you're not actually there, you can't tell if the guy's actually trying to push or not.

Hamilton
Q. In actuality, I think you can tell, if you were 8 feet away from me, I could tell if you're squirming or not, I mean I could see it.

Romero
A. I said, I said he was squirming, he was definitely squirming.

Hamilton
Q. Okay.

Romero
A. He was definitely squirming around.

Hamilton
Q. That's why I want you to take your time, make sure that you, what you're saying is clear, because a lot of times what you're

saying is, is that you can't see certain things and you don't know, and you're watching the entire event, and that's what hard for me to understand, that you're saying you're watching this entire event, but here you can't give us a very clear picture of what happened, even the first time that I interviewed you, you were saying that, for the most part, you didn't see the person handcuffed, you didn't see them hobble him, you just said basically you were standing there and it was all over. And, now you're kind of saying, yeah...

Romero
A. Well..

Hamilton
Q. ...I saw them handcuffing this guy, yeah, I saw a deputy so and so putting the hobble on him. The only thing we want to do, and obviously you're a little uncomfortable being here, being questioned, and I understand that. Okay, we're not here to hammer you or make you say things that's, that's uncomfortable for you. What we want to do is just get at the truth, because, like I said, we're dealing with four deputies careers.

Romero
A. Right.

Hamilton
Q. And, you know, it, it bothers me at times, when, you know, people are saying, it's not just you, other people are saying that they didn't see anything when they were right there, and we have a problem with that, and the only person that you're hurting, you're not hurting me, cause I'm just gonna write what you say, you know, and we'll let somebody else deal with it. But, if there's certain things that happened whether it looks good or bad, I would hope that you would say that, cause like I said, people make mistakes at times, and we realize that, we're not in the business just to, you know, to hammer people, that's not my job.

Romero
A. Okay.

Hamilton
Q. I wonder if there's a problem here, we want to resolve the problem.

Romero
A. Right.

Hamilton
Q. And that's why I'm here, I want to get at the truth.

Romero
A. Right.

Hamilton
Q. So, you know, like I said, if, if you saw something fine, if you didn't, that's fine too, I can deal with it, as long as you can deal with it.

Romero
A. Fine.

Hamilton
Q. Okay, getting back to this going back to the event. Now, when you first came into the module, was the guy handcuffed or not?

Romero
A. I'd say he was. If I had to say a straight answer, I'd say he was.

Hamilton
Q. And, why would you say that?

Romero
A. Because by the time I got to the door...

Bell
Q. Speaking of the door that you held open?

Romero
A. Right, the door that I held for Deputy Sloan...

Hamilton
Q. The booth?

Romero
A. Right, the booth door. By the time I turned around, and looked at the incident, the inmate was handcuffed, and they were

trying to restrain him and hobble him.

Hamilton
Q. Okay, let me ask you, when you walked through the door, was he handcuffed?

Romero
A. Like I said, I'd have to say he was.

Hamilton
Q. Okay.

Romero
A. When, when I walked in the door, the inmate was face down, and there was three deputies around him...

Hamilton
Q. Right.

Romero
A. I didn't see the inmate swinging his arms around, and he was face down, so I'd have to say he was handcuffed.

Hamilton
Q. Okay, but you didn't actually...

Romero
A. But, I couldn't see the handcuffs on him, cause, when I walked in, there was an inmate kind of on top of him, holding him down, so I couldn't see, I didn't see his wrists, I couldn't tell if he was handcuffed.

Hamilton
Q. You mean, you mean a deputy?

Romero
A. ...yes a Deputy.

Hamilton
Q. Okay. So, these deputies are struggling with this inmate, you don't know if he's handcuffed, and you decide to go over to the door to relieve the deputy versus going to help these deputies that are struggling with this inmate?

Romero
A. Well, like I said, that was, that was just the judg-, the decision I made, the deputy asked me to hold the door for him, I held the door for him, there was no more than, like you said, 8 feet from the incident, so, I figured, why not? That was just the decision I decided to make.

Hamilton
Q. Okay.

Romero
A. He had already been there, he had seen what had taken place...

Hamilton
Q. Okay.

Romero
A. I figured I'd...

Hamilton
Q. And, when you went to the door, I assume you focused in on the disturbance, correct?

Romero
A. Right.

Hamilton
Q. Did you see the inmate handcuffed?

Romero
A. When I, yes, as I turned to hold the door, I held the door, and then I turned and looked over at the incident. He was handcuffed and they were trying to hobble restrain him then.

Hamilton
Q. Okay, did you see who handcuffed him?

Romero
A. No, I can't say who actually did the handcuffing.

Hamilton
Q. Was anybody grabbing this inmate's hair, or punching him, or kicking him, or...

Romero
A. Not, like I said I, I said, I didn't see anybody hit him, but they were holding him down, and I believe, I believe it was Deputy [redacted] and Kluth who were holding the upper torso.

Hamilton
Q. Okay.

Romero
A. I don't recall if they were grabbing, I don't think they were grabbing his hair. They might have been having his hand on top of his head, and holding his upper torso area, but I don't, I don't recall.

Hamilton
Q. And, when you say they might have been, there's a possibility that they could have had their hands on his hair, on his hair possibly?

Romero
A. Well, if you're, if you're asking me to say whether or not he, they were doing it, I didn't see the hand on the face, but I, like I said, when I looked at the inmate, his face wasn't, he wasn't moving his head around, or anything like that, so, it's possible that somebody could have had their hand on his head, but I didn't see it, so...

Bell
Q. You didn't see it.

Hamilton
Q. What were you looking at when you were looking at the disturbance, what, what, were you looking at?

Romero
A. I was just centered kind of like at the bottom part, I guess, kind of like from the, basically the whole incident, I mean, I was only right there, I mean, I saw the whole thing. But, I wasn't particularly looking at the, at his head, I was looking at the other inmate who was in the shower, I kept looking down, and I'd look back up, and I mean, but I didn't, I can't recall somebody grabbing hair or not.

Hamilton
Q. What do you think that inmate in the shower told us?

Romero
A. I don't know, I have no idea. But, I'd assume, you know, knowing these inmates, I'd assume he's gonna take the inmate's side, and whatever he's going to say that he saw deputies kicking him, and which he might have, I don't know, but, by the time I got in there, I didn't see anybody hitting him.

Hamilton
Q. So, why, why would he say that?

Romero
A. 'Cause that's how these inmates, that's how these inmates, that's the side they take, they take each other's side, just like you said, deputies back each other up, inmates will back each other up. I told you, that's what, what I saw, by the time I got in there, I don't, I don't recall anybody hitting him, that...

Bell
Q. And you say it was Deputy Barrett who told him to turn around?

Romero
A. Yes. He was, I'm sure, he was one of the deputies telling him, but I know I heard a couple of other deputies yelling, you know, face the wall, face the wall.

Bell
Q. Deputy Barrett was right there, as the main hallway flares out into the main part of the module...

Romero
A. Right.

Bell
Q. Is that what you're saying?

Romero
A. Right.

Hamilton
Q. Where was Broad and Kammer?

Romero
A. As far as I, as far as I recall, they were standing right, as I was holding the door, they were standing right, right in front of me. I don't recall them getting involved in the incident.

Hamilton
Q. You don't remember them grabbing this guy's leg?

Romero
A. No.

Hamilton
Q. Do you remember Deputy Broad got injured?

Romero
A. Nope.

Hamilton
Q. You don't remember talking to him later on about how he injured his finger when you went back upstairs?

Romero
A. I came back upstairs, but as soon as I, I came up after, they came up right after the incident, I didn't come up till afterwards, cause I hung around, I was in the booth, and I came up, I don't know how much longer after they did, but as soon as I came up, I went to the back dorm, and did my dorm reliefs.

Hamilton
Q. When you first came to the dorm, did you see any blood on the floor?

Romero
A. Oh yeah, in 4400?

Hamilton
Q. Yes. That's what we're talking about.

Romero
A. Yes.

Hamilton
Q. Where did it come from?

Romero

A. I would assume from the inmate. I didn't see no, I didn't see any other Deputies standing there, I didn't see any of them bleeding, so, I don't...

Hamilton

Q. Did they mention what happened to the inmate?

Romero

A. No, I didn't, I didn't sit around and ask, I didn't, I didn't say what happened, you know. When they turned the inmate over after they hobbled him, I saw he was bleeding from his face, and I saw a puddle of blood on the floor, I saw, so I, I could make my own observations just from that.

Hamilton

Q. So, you never, you never asked him about that.

Romero

A. No.

Hamilton

Q. So, when we talk to [redacted], [redacted], Kluth, and Sloan, and we ask them if you asked about that, they're going to tell us that you didn't ask them anything about the incident, correct?

Romero

A. Well, I asked them what, you know, I said what happened? And they, they referred to the inmate, I guess, choking out Deputy Kluth, but I hadn't, if they, if you asked them, whether or not I asked them how did the inmate get hurt, I never asked them, you know, how, what did they do to him, or I just made my own decision on what had happened to the inmate since I saw his, his, his cuts on his face, or whatever, his...

Hamilton

Q. Well, what conversation did you have with them, 'cause you were in a booth with them.

Romero

A. I talked to, well, as soon as Deputy, I believe it was Deputy Sloan and Kluth walked into the booth, they got on the phone, and I asked Deputy Sloan, I said, you know, "Do you need anything, and

he says "No," he says I'm fine, thank you." I said okay, and he says "We got it covered," and that's when I left, and I told Deputy [redacted], "Do you need anything," and he said "No," and that was it, and I went up to my module, did my relief, that was it. But, I, if you asked them whether or not I asked them about how the inmate got hurt, I never asked them.

Hamilton

Q. Before you left the, the module, and I know I probably asked you this before, you didn't see any other inmates, correct?

Romero

A. Just the one in the shower, that was it.

Hamilton

Q. Let me, let me just, let me just ask you something. There was approximately 4 or 5 inmates that, obviously, you didn't see for whatever reason, cause they were all around you and, in a sense, they weren't out in the open, but they were there and, and saw what happened. Is there any reason why they'd mention you, cause someone knew who you were, that you were somehow involved in this, is there any reason why they would pick you out, versus any of the other deputies like Kluth, or Sloan, or, [redacted], why would they say, you, not as a main player, but certainly that you were somewhat involved. Why would they select you? Have you ever worked in that module, have you pissed them off, or...

Romero

A. (Inaudible).

Hamilton

Q. ...you seem like a nice guy, I wouldn't know why.

Romero

A. I have no idea why they would choose, I mean, I, I've worked there a couple times, but not, not anytime recent, I worked there on overtime during day shift, but I have no idea why they would mention me, I mean, maybe they saw, I was the first one and like I said, I was the first one to walk in, maybe they saw me, they recognized me, I don't know. But, I wasn't involved, I was holding the door open, but that's it.

Hamilton
Q. And you don't know why this one inmate would say that Deputy Sloan makes the statement to you that I just mentioned earlier, you wouldn't know why they would, they would just simply make that up?

Romero
A. I have no idea why they would, why they would say it. Like I said, if it came down to it, and, and you were asking me whether or not it happened, and he told me that, I would have said, yeah, maybe he did, I don't, you know, I didn't go out and do anything, I didn't hit him, I didn't see Deputy Sloan hit him, but...

Hamilton
Q. No, I'm not...

Romero
A. ...but Deputy Sloan never told me that, I mean, I just, you know.

Hamilton
Q. Could he have said something like that, similar to that?

Romero
A. I didn't, I didn't hear it.

Hamilton
Q. Okay.

Romero
A. He told, what I heard is hold the door for me. That was all I heard, and I held the door for him.

Hamilton
Q. Okay, he didn't say anything else?

Romero
A. Not to me.

Hamilton
Q. Okay, so basically, these inmates, or this one particular inmate, is just something that he fabricated.

Romero
A. I guess.

Hamilton
Q. I mean it's possible, I don't know, that's why I'm asking, that's why we're here.

Romero
A. I guess. If you're asking me, yes.

Hamilton
Q. And you don't know how this inmate got injured, correct?

Romero
A. I mean, they didn't never tell me specifically, but I assume he got injured because the deputies hit him.

Hamilton
Q. Do you know the inmate was injured elsewhere, correct?

Romero
A. Yes.

Hamilton
Q. Where, where did you, where was he injured?

Romero
A. His testicle area.

Hamilton
Q. You know how that happened?

Romero
A. I don't know, I assume, they say somebody kicked him, but that's just rumors that go around that you hear through the, through the jail.

Hamilton
Q. You think he got kicked?

Romero
A. I don't know, I, I'd say no, but I don't know. Not when I was there, cause he didn't get hit when I was there.

Hamilton

Q. Okay, I'm just asking in general whether you were there or not, what you think?

Romero

A. It's possible, I don't know. I can't, you're kind of putting me on the spot, you want me to say whether or not he got kicked, I haven't, I mean it's possible he could have got kicked.

Hamilton

Q. That's all I'm asking you, if it possible...

Romero

A. It's definitely possible.

Hamilton

Q. If you're saying, if you're saying he wasn't kicked while you were there, I understand that.

Romero

A. No...

Hamilton

Q. I mean, I'm not asking you to tell me that he got kicked, if he didn't, if you didn't witness that, I'm just asking you if it was possible.

Romero

A. Oh, it's definitely possible, yes.

Hamilton

Q. Anything else? I would encourage you not to talk about our conversation with other deputies, because the investigation isn't done at this point, and it kind of taints things if you, you guys are talking back and forth, and it doesn't look good when we have the same conversation with another deputy, and basically they're regurgitating the same thing that you just stated, so...

Romero

A. Right.

Hamilton

Q. ...if you remember something, I would strongly encourage you

to let us know either way, one way or the other, and I appreciate your time. Anything else?

Bell
Q. No.

Hamilton
Q. Do you have anything of us, any questions concerns, anything?

Romero
A. No, no.

Hamilton
Q. How long you been working here?

Romero
A. At Central Jail, about a year, year and a half.

Hamilton
Q. Have you ever been investigated for anything?

Romero
A. No, sir.

Hamilton
Q. IA, anything else, never?

Romero
A. No.

Hamilton
Q. You ever been involved in use of force?

Romero
A. Never. None. Just a witness, stuff like that.

Hamilton
Q. A witness.

Romero
A. Yes, but never investigated like IA, or anything like that, just force witness, force witness, OC spray, or stuff like that, but never.

Hamilton
Q. Okay. Okay, we're going to end this interview at 2400 hours, alright, thanks, appreciate it.

END OF INTERVIEW

DEP. CESAR ROMERO
I.C.I.B. INTERVIEW 12-7-94

WITNESS INTERVIEW

CASE NUMBER 494-00023-2300-444

CESAR ROMERO

Hamilton
Q. Okay, today's date is December 7, 1994, it's now 0049 hours, we're here at Men's Central Jail. We're going to be discussing a incident that occurred on October 27, 1994, at Men's Central Jail, in module 4400. We're gonna interview Deputy Cesar Romero, employee number [redacted]. This case is being investigated under ICIB file number 494-00023-2300-444. Present in the room is Sergeant Ron Bell, and myself, Sergeant Eric Hamilton. Deputy Romero, were you working on October 27 of this year at, on early morning shift?

Romero
A. Yes.

Hamilton
Q. Okay. Where were you assigned?

Romero
A. 9000 Roving Patrol.

Hamilton
Q. Okay, did you have a reason to go down to module 4400?

Romero
A. Yes.

Hamilton
Q. Okay, why did you go down there?

Romero
A. Because, while standing in the booth, we heard a distinct yell coming in from the door, the door was pried open, and...

Hamilton
Q. Hold on one second. Let's back up. Did you receive some sort of call, do, you're working 9000 floor, correct?

Romero
A. Right.

Hamilton
Q. Okay, did you receive some sort of call to respond down to the 4000 floor, or did you hear something over the P.A.?

Romero
A. We might, no I didn't hear anything over the P.A. We might have heard a call over the radio, but I, I didn't have a radio with me at the time...

Hamilton
Q. Okay.

Romero
A. ...I usually don't carry a radio.

Hamilton
Q. Okay, so why were you down there on the 4000 floor?

Romero
A. Because I went with Deputy Barrett, Deputy Kammer, and Deputy Broad. I responded.

Hamilton
Q. Deputy, Deputies who?

Romero
A. Deputy Kammer, Deputy Broad, and Deputy Barrett. They went down there from 9000 also.

Hamilton
Q. For what?

Romero
A. I guess, I guess they had heard the call, or whatever they did, and they went down there.

Bell
Q. And they started running, and you followed.

Romero
A. I basically, they went down. They said, they, said, you know, let's go down, so I went down with them, and then, you know, I got down, I was basically the first one in line after it all happened.

Hamilton
Q. Okay, so you went down there...

Romero
A. Right.

Hamilton
Q. ...to 4400, and what happened? Who was first in the door, or how'd you get inside the module?

Romero
A. I went, Barrett held the door to walk into the module.

Hamilton
Q. Okay.

Romero
A. And, then, I walked in and as I walked in, the inmate was lying on the, on the floor, and that's when Deputy Sloan asked me to hold the door for him. I held the door, he went over assisted in hobbling, that was basically it.

Hamilton
Q. Okay, let's back up a little bit. So, you went down there with some personnel from 9000, correct?

Romero
A. Right.

Hamilton
Q. Okay, you, all four of you, Barrett, Cameron...

Romero
A. Kammer.

Hamilton
Q. ...Kammer...

Romero
A. Kammer, Broad...

Hamilton
Q. Broad and Barrett, and yourself...

Romero
A. And myself.

Hamilton
Q. Okay, so that's four. You guys went down there, Barrett held the door open, all the rest of you guys went inside in the dorm. Correct?

Romero
A. Right.

Hamilton
Q. Okay. You saw Deputies inside the dorm, in the sally port area where...

Romero
A. Right, they were in the sally port area.

Hamilton
Q. ...what did you see?

Romero
A. Deputy Kluth, Deputy [redacted], and Deputy [redacted].

Hamilton
Q. Okay, what were they doing?

Romero
A. They were holding the inmate down on the floor.

Hamilton
Q. How were they holding him down?

Romero
A. They had hands on top of him, they were just holding him down, I mean, I think [redacted] was holding down from, from his chest area, [redacted] was holding onto his legs, and Kluth was on the other side,

holding down his other, upper body. He was still squirming, and he was moving his...

Hamilton
Q. Was the guy on his back or, on his stomach?

Romero
A. On his stomach?

Bell
Q. Was he handcuffed?

Romero
A. Yes.

Hamilton
Q. Okay, so [redacted] was on his, you said his chest.

Romero
A. Right, [redacted] and Kluth.

Hamilton
Q. Okay, he was, you said he was on his stomach.

Romero
A. No, he was, I mean he was holding down his chest, his...

Hamilton
Q. ..upper torso.

Romero
A. ...he was holding his chest onto, down to the ground.

Hamilton
Q. Okay, and you said who was on his feet?

Romero
A. [redacted].

Hamilton
Q. And then Sloan was on the other side.

Romero
A. Well, [redacted], [redacted], when I walked in, Sloan was holding the door, Sloan wasn't anywhere around.

Hamilton
Q. Okay, where's Kluth?

Romero
A. On the other side, of the inmate, on the upper torso, you see, [redacted]'s on one side, and Kluth is on the other side.

Hamilton
Q. Okay, and then Sloan was standing in the doorway with Kluth?

Romero
A. Right.

Hamilton
Q. And then, you, what happened?

Romero
A. Then, that's when I walked in, I saw him, and then, then Sloan asked me to hold the door for him, so I went over and held the door for him, and he ran over and assisted, grabbed the other leg, and then they hobbled him.

Hamilton
Q. Who hobbled him?

Romero
A. I believe Kluth did, I'm not absolutely sure, I can't really remember, but I believe he was.

Hamilton
Q. Do you know why they hobbled him?

Romero
A. Because, well, from what it appeared to me, the inmate was still trying to move around, he was, even though he was handcuffed, he was still moving his body, he was still trying to, you know, kick, he looked like he was still moving around, so, from what I saw.

Bell
Q. Did you see him kick anybody?

Romero
A. No, he didn't kick anybody, I didn't see him kick anybody.

Bell
Q. You see him try to kick anybody?

Romero
A. He might have been trying, I couldn't really tell, but, I mean, I, I saw him moving around, he could have very easily been trying to kick [redacted], or whoever was holding his legs, [redacted].

Hamilton
Q. Okay, then what happened? They put the hobble on him?

Romero
A. Right. And then they, after they put the hobble on him, they turned him over and that was basically it.

Hamilton
Q. You say they turned him over, did they turn him onto his back, or...

Romero
A. They turned him over to his side.

Hamilton
Q. Alright. Where were they positioned in the sally port area?

Romero
A. They were, as you walk in, they were to the right hand side, right hand side of the sally port area, right, actually left hand side of the, of the actual booth, right outside the module.

Hamilton
Q. Who were the other deputies that responded from 9000, what were they doing?

Romero
A. Well, like I said, Barrett held the door, so by the time he came out, I don't know what he saw, but Kammer and Broad were just

standing off to the side, basically.

Hamilton
Q. Which side?

Romero
A. Right, right as you walk in through the, through the module door.

Hamilton
Q. Okay.

Romero
A. They were just standing right, right in front. So, they were just standing right as you walk in, right in the middle, actually, and not even to the side, right in the middle, as the incident was taking place off to the right hand side.

Hamilton
Q. When you walked in, did it look like the deputies had this guy under control?

Romero
A. They had him 'cuffed, I wouldn't necessarily say under control, but he was 'cuffed.

Hamilton
Q. So, are you saying that they didn't have him under control?

Romero
A. I wouldn't say so, no.

Hamilton
Q. Why didn't you guys assist them, why didn't somebody go running to assist them? You went down there with the intent...

Romero
A. Right.

Hamilton
Q. ...to help them, right?

Romero
A. Well, well, yeah right. Well, I mean I saw him cuffed, I saw three deputies on him, so my first reaction was, okay, it's over, I mean, but I mean, I, I could see how, if he was squirming, and trying to kick or whatever, how he might have not been, you know, actually, you know, contained, but, I mean, my first reaction was okay, he's 'cuffed, there's three deputies there. Sloan asked me to hold the door for him, so I held the door for him, and I figured it was over by then.

Hamilton
Q. You said that they hobbled his legs, how did they do that, what you saw, what did they do, exactly, did they lift both legs, did they, one leg, or how did they...

Romero
A. Well, they lifted both legs back, and then they...

Hamilton
Q. Both deputies did it or one deputy lifted both legs?

Romero
A. I believe both of them did it.

Hamilton
Q. And who was that?

Romero
A. That would, that would have been [redacted] and Sloan.

Hamilton
Q. They lifted, they took each side.

Romero
A. Right, right. Well they had, they were on the opposite sides, but, from what I could recall, I believe both of them grabbed the legs, both legs, at the same time, and pulled them back, back towards his torso, upper torso.

Hamilton
Q. So, were they behind him, or were they...

Romero
A. They were off to the side, and kind of just, you know...

Hamilton
Q. Pulled his legs.

Romero
A. ...right, pulled his legs back towards his butt.

Hamilton
Q. Okay, and then they went and put on the hobble.

Romero
A. Right.

Hamilton
Q. Did you see anybody kick this inmate or punch him?

Romero
A. No.

Hamilton
Q. You didn't see anybody...

Romero
A. Like I said, by the time, no, I, I didn't see any kicking, I didn't see any hitting or anything, by the time I got there, it was basically over with.

Hamilton
Q. Well, well, let's back up. It wasn't over, because you were saying that they, they hadn't even applied the hobble, correct?

Romero
A. Right, well, that's...

Hamilton
Q. They had him handcuffed.

Romero
A. Right.

Hamilton
Q. It wasn't over because he was struggling?

Romero
A. Right, right, okay.

Hamilton
Q. Well, I'm not putting words in your mouth...

Romero
A. Right.

Hamilton
Q. ...I'm just saying that's what happened, right?

Romero
A. Yes.

Hamilton
Q. Okay. And, you didn't see any deputies or anyone else do anything inappropriate, punch this guy, yell at him, kick him to get him to do what they wanted him to do?

Romero
A. Well, yelling at him, I'm sure, there was yelling going on.

Hamilton
Q. Okay.

Romero
A. But, I mean, no, no punching, no kicking, nothing like that.

Bell
Q. Who was yelling?

Romero
A. I believe Kluth and [redacted]. I believe Kluth and [redacted] were yelling at him.

Bell
Q. Was the inmate yelling?

Romero
A. No, I don't recall the inmate yelling.

Bell
Q. How about after he was 'cuffed and hobbled, what was the inmate doing then?

Romero
A. They turned him over to his side, and then he, I don't, I don't recall him saying anything, or yelling or anything. Then again, I didn't, I didn't stick around for a long time, I just, after that, he came over and I told him, asked him if everything was code four, he said yes, I said okay.

Bell
Q. Okay who's he?

Romero
A. Sloan, Deputy Sloan.

Hamilton
Q. Okay, you said that Kluth and [redacted] were yelling?

Romero
A. Yes, they might have been.

Hamilton
Q. What were they yelling?

Romero
A. I can't, I can't remember.

Hamilton
Q. Did they seem to be upset?

Romero
A. No I think it was more in the, more in the tone of trying to get him to give up, you know, I think they were trying to get him to comply or, but I can't I don't exactly know what they were yelling.

Hamilton
Q. How long did it take them from the moment that you walked in

there, and relieved Sloan, to them to actually hobble this guy and restrain him?

Romero
A. From the time I held the door to, to, I'd say about, not a very long time, maybe a minute or two.

Hamilton
Q. A minute or two.

Romero
A. A minute at the most, I believe, I mean it wasn't that long.

Hamilton
Q. Okay, now you didn't see them hit the guy or anything like that because he was resisting?

Romero
A. No.

Hamilton
Q. If a guy was resisting you, would you think it's okay to hit him, to get him to comply?

Romero
A. Yeah, if he's resisting, to a certain degree, I mean, but if he's already 'cuffed, and you, you got four deputies on him, I mean, you're going to hobble the guy, and there's no need to hit him, I wouldn't think.

Hamilton
Q. Okay. Who else was in there, in the dorm? See any inmates?

Romero
A. I saw one inmate, who was sitting in the shower I guess or, I can't remember in the shower or, after, but he was, he was on the other side of the cell by the bars.

Hamilton
Q. Okay, what shower?

Romero
A. The shower that's off to the right hand side, I can't, I can't

remember if it was a shower, or the restroom, or...

Bell
Q. Upstairs, downstairs?

Romero
A. Downstairs, I believe, I believe it was downstairs.

Hamilton
Q. What did he look like?

Romero
A. He was, he was a black inmate, I really didn't see his face, because they kept telling him to turn and face the wall, face the wall.

Hamilton
Q. Okay, he was in the lower shower, or was he in one of the storage rooms, or was he in the day room?

Romero
A. He was, he was either in the shower, or he, he was in the upstairs day room, I mean, but he was on, right, he was right there on the side.

Hamilton
Q. Okay, when you say on the side, what, what do you mean on the side?

Romero
A. On the right hand side, on, right where the, right where the incident took place, just on the other side of the bars, I mean...

Hamilton
Q. Lower or upper?

Romero
A. I believe it was lower.

Hamilton
Q. Okay, ...(inaudible) shower.

Romero
A. That's where I think he was at, in the shower.

Hamilton
Q. Do you know what he looked like other than male black?

Romero
A. No, no I didn't, I didn't even look at him, I just know he was a black inmate.

Hamilton
Q. And, you noticed him when you walked in, or when you, when you (inaudible)?

Romero
A. When I was standing there holding the door, and I was watching them hobble him, and then he kind of just, he was off, he was in, in my view of the inmate.

Hamilton
Q. Okay. Anyone else, trusties?

Romero
A. No, I didn't, I didn't see any trusties or anything.

Hamilton
Q. You didn't see anybody in the storage area?

Romero
A. No. That's the only inmate I...

Hamilton
Q. You didn't see a white guy?

Romero
A. The only inmate I paid attention to was that black inmate, that was on the other side, and other than that, I didn't see anybody else.

Hamilton
Q. Any other deputies respond?

Romero
A. No, just the ones I mentioned Kammer, Broad, Barrett, myself, and the four Deputies that were already there.

Hamilton
Q. Okay, how about a senior or sergeant?

Romero
A. No.

Hamilton
Q. Floor Prowler from 4000?

Romero
A. Well, I guess [redacted] and [redacted] were prowlers that night, or whoever was a prowler that night, they were there.

Hamilton
Q. Did the deputies tell you what happened?

Romero
A. Not till after, when we heard about the incident, but not at that time, they didn't.

Hamilton
Q. Did the deputies that were there, did they tell you?

Romero
A. No, not at that, not at that, that, matter of fact, there wasn't even that day, I don't believe or it might have been later on that day.

Hamilton
Q. Who did you talk to about the incident?

Romero
A. [redacted].

Hamilton
Q. What did he say?

Romero
A. He just said that, I guess, the inmate apparently turned on

Deputy Kluth, and was choking him, and then he took him down, and the fight was on, I guess, and that was basically it. But I never got the story from Sloan or Kluth, that was just...

Hamilton
Q. You didn't see anything else?

Romero
A. No, as in...

Hamilton
Q. The incident?

Romero
A. No, I mean, that's all I saw. I mean, I don't know what, what you mean, is there anything else, as in what, as in, are there other inmates or...

Hamilton
Q. Anything that comes to mind as far as that incident, somebody else being there, or statements that were made or anything?

Romero
A. No, I can't, I can't recall, no.

Hamilton
Q. Was the inmate complaining after he was hobbled, was he complaining about anything?

Romero
A. No. I stood there and I, he didn't, I can't recall him yelling or saying anything, I don't, he didn't say anything.

Hamilton
Q. So, he didn't appear to be in pain, did he appear to be pissed off, or did he, was he yelling was he calm?

Romero
A. It looked like he was calm, I mean, he was handcuffed, he was hobbled, he was off, he was leaning to his side, his face was all bloody.

Bell
Q. Was his face pointed toward you or was it against the wall?

Romero
A. No, it was pointing back down towards the, towards the freeway, towards the actual...

Bell
Q. You can't see his facial expression?

Romero
A. No, no, not really no, I couldn't see it even because blood was all over his face, so I couldn't really make out what, what he was doing with his face, but.

Hamilton
Q. Let me ask you something, and don't take it the wrong way, but sometimes I'm blunt. If, if a deputy punched or kicked this inmate, would you tell us?

Romero
A. If he did it, if he did it wrong, I mean if it was a wrong doing...

Hamilton
Q. Just asking if he punched him or kicked him, would you tell us?

Romero
A. Possibly.

Hamilton
Q. Possibly?

Romero
A. I mean if it's a wrong, if it's a wrong hitting, if it shouldn't have been done, yes. 'Cause, I mean, like you said, eventually it's gonna come out, and I don't wanna get put in, in a bad spot, so, yes, but, if it's not a wrong hitting or anything then ...

Hamilton
Q. Okay.

Romero
A. ...I mean.

Hamilton
Q. So, you never saw him, any of the deputies hit or kick this guy? I mean, it's no big deal, like we say, we just want to get a feel for what happened.

Romero
A. Right, right.

Hamilton
Q. If he did it, I mean one of things that I've learned from doing this for a while, is sometimes deputies tend to think that they can't tell us as investigators that they hit somebody, if they deserve to be hit, then they should be hit.

Romero
A. Right.

Hamilton
Q. If they don't deserve to be hit, then they shouldn't be hit...

Romero
A. Right.

Hamilton
Q. ...so, if they hit this guy, or kicked him, or did something that they, that you, you may think they weren't supposed to do, you know, that may not be the case, just, we just want to know what happened, I'm not trying to put words in your mouth...

Romero
A. Right.

Hamilton
Q. ...or create a scenario, whatever.

Romero
A. No, I mean, I understand, I mean, like I said, I fully believe he deserved to get hit, but I didn't see them hitting him by the time I got there, I guess all the hitting had been done already, so.

Hamilton
Q. Okay. Did they ever say what happened to his face?

Romero
A. No, I didn't, I never heard. I never heard of any of his injuries.

Hamilton
Q. Okay. Did you ever go back and talk to the sergeant, let him know that you witnessed use of force?

Romero
A. Yes, I notified the sergeant, and...

Hamilton
Q. What Sergeant?

Romero
A. Sergeant Duncan, I believe. I have it written down, so...

Hamilton
Q. Okay, go ahead.

Romero
A. Yeah, Sergeant Duncan.

Hamilton
Q. What time, or did you note that, or...

Romero
A. No, I didn't note that, I just put on here he was notified, and, and he didn't, no further detail, I mean he didn't want me to do anything else.

Hamilton
Q. Where was he when you told him that? Where was he, was in the office, or upstairs, or...

Romero
A. No, he was on the floor. At...

Hamilton
Q. Which floor?

Romero
A. ...well, I guess he was on 4000, cause what happened, I didn't go up to Sergeant Duncan, face to face, and tell him, I told Deputy [redacted], I told [redacted] because we had things to do up on 9000 still, there was still kind of beginning the shift, and I told [redacted], here's my name, you know, he knew my name already, to tell sergeant, the sergeant if he needs me to write anything, I'll be up on 9000. And he said okay, so [redacted] came up to me and said that Sergeant Duncan was told, and he said nothing was, needed to be done, so I noted it in my book, but I never actually spoke to Sergeant Duncan face to face.

Hamilton
Q. Let me give you a suggestion. You have to tell the sergeant, that's another matter.

Romero
A. Okay.

Hamilton
Q. That way you cover yourself.

Romero
A. Okay.

Hamilton
Q. But...

Bell
Q. Personally.

Romero
A. Right.

Hamilton
Q. Okay, any other deputies responded?

Romero
A. No.

Hamilton
Q. Okay, and how long were you guys there before you left?

Romero
A. I'd say no more than, no more than five minutes at the most.

Hamilton
Q. Five minutes?

Romero
A. Right.

Hamilton
Q. Okay, let me back up a little bit, after this guy was hobbled, what happened?

Romero
A. After he was hobbled? They just turned him over to his side, and then Deputy [redacted], Sloan and Kluth went back into the booth, and I guess, I can't, I can't remember if they got on the phone, or, they were trying to get a hold of the sergeant, I guess, I can't remember, but I know they got on the phone, I believe, and then [redacted] and [redacted] just kind of stood around, you know, they were all breathing, you know, pretty heavy, they were just trying to catch their wind, I guess, but...

Hamilton
Q. Did you stay, did you leave, what happened?

Romero
A. I stood there for about a minute or two, and then I told [redacted] if there was anything else needed, he said no. I said, okay.

Hamilton
Q. Did you hear what Sloan and what's his name?

Romero
A. Kluth.

Hamilton
Q. Did you hear what they were talking about when they went in the booth?

Romero
A. No.

Hamilton
Q. Were you still in there?

Romero
A. I was, I was still holding the door open, so I was kind of outside the booth.

Hamilton
Q. Where did Sloan go?

Romero
A. They went back inside the booth.

Hamilton
Q. Okay, so Kluth and Sloan, I'm trying to get, getting all of these people kind of confused here, okay, and then what about, was [redacted] was there, or [redacted]?

Romero
A. [redacted].

Hamilton
Q. Okay, [redacted].

Romero
A. Yeah, he was...

Hamilton
Q. Just kind of stood around.

Romero
A. ...right, him and [redacted] kind of just stood outside.

Hamilton
Q. How about Broad and Kammer, whatever his name...

Romero
A. Right, Kammer, they were just standing right outside, too, I mean, kind of standing where [redacted] and [redacted], just...

Hamilton
Q. And they were, okay, go ahead, I'm sorry.

Romero

A. And just, they were just, you know, kind of all four of them standing there together, and then they...

Bell

Q. Broad and Kammer never did anything?

Romero

A. They just watched, they just stood there, and kind of watched.

Bell

Q. Then, they came in the module with you?

Romero

A. Right behind me. Right.

Hamilton

Q. You all responded together, but...

Romero

A. Basically, yes.

Hamilton

Q. ...you just happened to go in the door first, while Barrett held it open?

Romero

A. Right.

Hamilton

Q. Okay. You never talked to Sergeant Mosley?

Romero

A. No.

Hamilton

Q. And you told [redacted] just before you went back to 9000 what happened.

Romero

A. Right.

Hamilton
Q. As far as reporting it to the sergeant.

Romero
A. Right.

Hamilton
Q. Okay. Did you see any blood on the bars, or on the walls, or anything?

Romero
A. On the floor.

Hamilton
Q. Just on the floor where the inmate was laying?

Romero
A. Right.

Hamilton
Q. Did it appear that he was injured, maybe I asked that earlier, but...

Romero
A. No, he didn't, it appeared like he was injured, I mean, you know, facial wise it looked like blood was everywhere, but I mean...

Hamilton
Q. Did he ever say who did this to him? Did the inmate ever talk about that?

Romero
A. No, I didn't like I said, I didn't hear him say anything, or yell anything or...

Hamilton
Q. I think that's just about it. Kammer working tonight?

Romero
A. No, he's off, both him and Broad are off.

Hamilton
Q. Good, that's the number one answer. Okay, anything else you can think of? Anybody else you can think of that we can talk to?

Romero
A. No, that was it, that was everybody that was there.

Hamilton
Q. Alright, we're gonna end this interview at 0111.

END OF INTERVIEW

DEP. [redacted]
I.A.B. INTERVIEW 12-13-95

SUBJECT INTERVIEW

CASE NUMBER IAB 008383

[redacted]

Nemeth
Q. Okay. Today's date is Wednesday, December 13, 1995. Time is 1345 hours. I'm Sergeant John Nemeth from Sheriff's Internal Affairs and this is Sergeant Ernie Gjendem. We're here at the Internal Affairs interview room to interview Deputy [redacted] regarding IAB Case Number 008383. Deputy [redacted], I'll ask you to state and spell your last name for the record and state your employee number.

[redacted]
A. Last name is [redacted]. Spelled [redacted]. Employee number is [redacted].

Nemeth
Q. Okay. And prior to going on tape I provided you with a copy of your Administrative Rights as a Sworn Subject in this case which I see you indicated yes to the questions, signed your name and placed your initials on the form. Do you understand your rights as a sworn subject in this case?

[redacted]
A. Yes, sir.

Nemeth
Q. Okay. And you have exercised your right to have a representative present and I see it's Miss Helen Schwab. Miss Schwab, would you spell your last name for voice identification on the record, please?

Schwab
A. Do you have different transcribers doing these so a different transcriber could be doing all five of the interviews?

Nemeth
Q. Absolutely. What we do is we send them out so they're not done in-house. So, that may be --

Schwab
A. -- that's not the same transcriber?

Nemeth
Q. Right.

Schwab
A. Because, I mean, obviously anyone doing these tapes would know the spelling of my last name.

Nemeth
Q. I understand but there's -- there's -- the company we send them to that does transcriptions seven days a week twenty-four hours a day, three shifts or four shifts. So, they're -- they have multiple employees over there.

Schwab
A. I assume you would send along those spellings of names that might be pertinent to the case, but the name is S-C-H-W-A-B.

Nemeth
Q. Okay. Thank you. Mr. Kander is present as a observer in this interview. He is also an attorney that works for the same firm. Mr. Kander would you spell your last name and state it for the record, please?

Kander
A. The name is Mitchell Kander. K-A-N-D-E-R. I am an attorney with Green & Shinee.

Nemeth
Q. Okay. Thank you. Okay. Any questions Deputy [redacted] before we get started?

[redacted]
A. No, sir.

Nemeth
Q. Okay.

Schwab
A. There's one thing I want to do, I want to change batteries in my tape recorder.

Nemeth

Q. Okay. Alright. We'll take a break. It's 1350 hours. All right. Back on the record. Time is 1350. Deputy [redacted], what was your assignment on the day of October 27, 1994?

[redacted]

A. I was assigned as 56 through 9 Prowler assigned to the 5000 floor of MCJ.

Nemeth

Q. Okay. And what are your duties as a -- in that assignment?

[redacted]

A. Provide security for the floor making sure everything runs smoothly on the floor, back chow, things of that nature.

Nemeth

Q. Okay. Did you have an occasion to go to Module 4400 that day?

[redacted]

A. Yes, sir.

Nemeth

Q. And how did that arise?

[redacted]

A. I was sitting in the control booth on 5000 writing a report that had happened prior on p.m.'s -- finishing that report. We had just finished count on 9000 and as I was writing the report I heard [redacted] yell out, "415 deputies involved, 4400." I saw Deputy [redacted] run out the door and I followed him into 4400 Module where I saw Deputy Kluth being choked by an inmate. I remember going up to the inmate tackling -- not tackling but going down to his legs -- taking control of his legs. At that point, Deputy Kluth, who was the deputy who was being choked by the inmate, he had -- was backing up trying to gain control of his left arm. I had proceeded to help Deputy Kluth take his left arm and place it in the small of the inmate's back. At that point, Deputy [redacted] could not get his right arm, the inmate's right arm back so we could handcuff the inmate. At that point, I struck the inmate in the right thigh approximately 5 to 6 times. Noticed that it didn't do anything as far as pain compliance. The inmate was still not putting his right arm behind his back. Struck him two more times. At that point,

I saw in the corner of my eye, Deputy Sloan come over and assist Deputy [redacted] in handcuffing the inmate.

Nemeth
Q. Okay. I don't see your prior statement on the table in front of you. I provi -- okay. I provided your representative with a supplemental report you wrote on this incident. Did you have a chance to look that over?

[redacted]
A. Yes sir, I did.

Nemeth
Q. Let me take you back a minute. Okay. You said you were writing a report from a previous shift --

[redacted]
A. -- Yes, sir. --

Nemeth
Q. -- and where were you writing that report? Where were you physically located?

[redacted]
A. I was physically located in the 5000 control booth at one of the desks.

Nemeth
Q. Okay. Who else was there with you?

[redacted]
A. It was Deputy [redacted] and Deputy McGroarty, who was the Control Officer.

Nemeth
Q. Okay. That's it?

[redacted]
A. That is it.

Nemeth
Q. And then you said you heard [redacted] say there's a deputy involved 415?

[redacted]

A. Yes, sir. Prior to that incident Deputy [redacted] asked me, you know, 'cause he normally didn't work the early morning shift. He asked me, you know, what do I do? I says well, you're supposed to relieve Deputy Kluth. He'd called down there and that's when Deputy Kluth or Deputy [redacted] had yelled out "415 deputies involved 4400."

Nemeth

Q. Okay. And that's because [redacted] was on the phone with somebody at Module 4400?

[redacted]

A. Yes, sir.

Nemeth

Q. Do you know who he was speaking with?

[redacted]

A. Not at the time, no sir.

Nemeth

Q. And so you're saying he learned about it over the phone? Is that --

[redacted]

A. -- Yes. --

Nemeth

Q. -- and announced it?

[redacted]

A. Yes, sir.

Nemeth

Q. Okay. And then the two of you immediately left the 5000 control booth?

[redacted]

A. Yes, sir.

Nemeth
Q. Okay. When you first heard of it did you hear Deputy [redacted] tell -- say anything to anybody besides that statement that there's a deputy involved 415 in Module 4400?

[redacted]
A. No, sir. Not that I remember.

Nemeth
Q. Okay. Did -- did you or -- or [redacted] tell the 5000 Control Officer to notify anybody else or do anything along those lines?

[redacted]
A. Not that I remember.

Nemeth
Q. Did [redacted] immediately hang up the phone after announcing it -- or before announcing it or?

[redacted]
A. Not that I remember, sir.

Nemeth
Q. Did he hand the phone to -- to the booth officer before he left or?

[redacted]
A. I don't remember, sir.

Nemeth
Q. Okay. What you're saying is you don't remember and that's fine. And if you -- if I ask you a question that you don't remember just say you don't remember. All these questions are phrased to you personally. Okay? So, if I ask you something and you don't know it or don't remember it just say, "I don't know. I don't remember." Okay?

[redacted]
A. Yes, sir.

Nemeth
Q. Okay. So, you -- you and [redacted] leave and you go directly to Module 4400?

[redacted]
A. Yes, sir.

Nemeth
Q. Okay. Was anybody going with you or were you -- just the two of you?

[redacted]
A. Just the two of us, sir.

Nemeth
Q. Was there anybody behind you that you heard coming down the escalator or the stairs or anything?

[redacted]
A. Not that I remember.

Nemeth
Q. Okay. And when you got to Module 4400, what hap-, who went in first?

[redacted]
A. Deputy [redacted] was right in front of me.

Nemeth
Q. Okay. Was the door opened, closed, locked?

[redacted]
A. I remember it being open, sir.

Nemeth
Q. Opened up?

[redacted]
A. Yes, sir.

Nemeth
Q. Okay. And so what -- what happened then? [redacted] went in first --

[redacted]
A. -- [redacted] went in first. I was -- came in right behind Deputy [redacted]. As we entered the -- the module, I saw Deputy Kluth

struggling with an inmate. I saw the inmate had his right arm around Deputy Kluth's neck choking him. At that point, I remember running up right behind Deputy [redacted] and as we were approaching, both the inmate and Deputy Kluth they both fell to the floor.

Nemeth
Q. Okay. When you say choking him, why -- what -- what caused you to choose the word choking? Is there something you saw that led you to believe --

[redacted]
A. -- I saw the inmate with his arm around Deputy Kluth's neck. I saw fear in Deputy Kluth's face. His face was red. So, I assumed that the inmate was choking him out. It loo--

Nemeth
Q. Okay. Did Kluth say anything to you?

[redacted]
A. No, sir.

Nemeth
Q. Was he gasping for breath or anything?

[redacted]
A. It sounded like a struggle was going on. Yes, sir.

Nemeth
Q. Okay. Now, what was Kluth doing? Was he attempting to get out of that hold or something or?

[redacted]
A. It looked like he was struggling with the inmate. Yes, sir.

Nemeth
Q. I need you to further define struggling.

[redacted]
A. Ummm, kind of like a swaying back and forth. I saw his right arm up around the inmate's arm trying to pull his arm up loose from his neck.

Nemeth
Q. Kluth's right arm --

[redacted]
A. Kluth's right arm --

Nemeth
Q. -- trying to free the inmate's right arm?

[redacted]
A. Yes, sir.

Nemeth
Q. Okay.

[redacted]
A. And as soon as I come up the inmate and Deputy Kluth both fall to the ground.

Nemeth
Q. Did Kluth have his left arm up there too, trying to pull the arm off -- the inmate's arm off?

[redacted]
A. I don't remember where his left arm was, sir.

Nemeth
Q. Okay. Alright. So, you say as soon as you go there they fell to the ground, the two of them?

[redacted]
A. Yes, sir.

Nemeth
Q. Did it appear to you that one or the other of the two of them, Kluth and the inmate, caused that fall or was it a mutual thing or was that intended on somebody's part or do you know?

[redacted]
A. I really couldn't say, sir. I -- I don't know. I just remember seeing them both falling to the ground at the same time.

Nemeth
Q. Okay. And what happened then? How did they land?

[redacted]
A. I remember Kluth landing kind of like on his right side and the inmate falling directly on top of him with, I'd say, his middle torso landing on top of Deputy Kluth and him falling over the top of him.

Nemeth
Q. Okay. You pointed to his stomach area when you said middle torso -- the inmate's front side middle torso? Is that right?

[redacted]
A. This area -- the stomach area falling on top of Deputy Kluth.

Nemeth
Q. Okay. Go ahead. Tell me -- describe what happened from there.

[redacted]
A. From there, I immediately went down to the legs and I placed my left knee on top of the back or back of the inmate's legs to control his legs. I remembered Deputy Kluth struggling and getting out from underneath the -- the inmate and struggling to get his left arm. The inmate at the time was violently struggling trying to get away from my grasp on his legs. I assisted Deputy Kluth in taking his left arm and placing it in his back. I remember he was kicking violently with his legs. So, I let go of his left arm to control his legs. Kind of like I was laying down on top of his legs at that point and Deputy [redacted] was struggling with his right arm. I remember hearing Deputy [redacted] saying, "Give me your right arm. Give my your right arm." Could not -- could not get his left arm or his right arm behind his back. So, I struck the inmate in the back of his right thigh with my right fist five or six times. I looked up, reassessed [redacted] still didn't have his right arm behind his back. I struck him two more times and that's when I saw Deputy Sloan out of the corner of my eye come over and assist Deputy [redacted] with the inmate's right arm. At that point, the inmate was violently struggling with us. I felt that it was important that I controlled the inmate's legs so that he couldn't try to start getting up. He was still kicking with his legs violently. So, I went down and wrapped my arms around his thighs and held on to his legs.

Nemeth
Q. Okay. When you got to the module you saw Kluth in that position, did you see Deputy Sloan in the module somewhere?

[redacted]
A. No, sir, I did not.

Nemeth
Q. You didn't see him at all?

[redacted]
A. I tunnelled in right on Deputy Kluth.

Nemeth
Q. Okay. And so, at that point it's yourself, [redacted] who entered just before you --

[redacted]
A. -- Yes, sir. --

Nemeth
Q. -- and Kluth and that's all you saw in the module? And the inmate?

[redacted]
A. Yes, sir.

Nemeth
Q. Okay. Alright. Now, something you said twice now is that you hit the inmate with your right fist on his right thigh five to six times?

[redacted]
A. Yes, sir.

Nemeth
Q. And I asked you earlier did you get a chance to review your supplemental report that you prepared in this incident?

[redacted]
A. Yes, sir.

Nemeth
Q. Does it say that you hit the inmate with your right fist on his right thigh five to six times anywhere in there? Take your time and review it.

[redacted]
A. It says four to five times, sir.

Nemeth
Q. Okay. And what it says --

Schwab
A. Excuse me, I'm still reading this.

Nemeth
Q. Oh, sure.

Schwab
A. Sergeant, (inaudible).

Nemeth
Q. All right. What you said when you -- just a minute ago when you indicated four to five times on page one of the -- the last sentence -- last partial sentence on page one is: "I yelled four to five times for suspect [redacted] to place his right arm behind his back." I guess the question I asked you was, does it say anywhere in your report that you punched inmate [redacted] on his right thigh with your right fist five to six times?

[redacted]
A. Does it say that in my report? No, it does not, sir.

Nemeth
Q. Okay. What does it say in your report?

[redacted]
A. It says that I struck the inmate two or three times in the back of his thigh.

Nemeth
Q. Okay. What's more accurate, what the report says or what you just told me?

[redacted]
A. I would have to say what I just told you, sir. 'Cause I can remember striking him five to six times.

Nemeth
Q. Okay. You're having a clearer memory of it now then when you wrote report?

[redacted]
A. Yes, sir.

Nemeth
Q. Okay. How soon after the incident did you write this report?

[redacted]
A. It was approximately 2-1/2 - 3 hours after the incident.

Nemeth
Q. Okay. And today is approximately 14 months after the incident. Correct?

[redacted]
A. Yes, sir.

Nemeth
Q. You're having a better memory now as we sit here and discuss it than you did three hours afterwards when you wrote this report?

Schwab
A. Well, I don't think you can talk about what's a better memory. He can only tell you what he recalls today, 14 months after the incident.

Nemeth
Q. Okay. I'm just curious because, you know, logic would...

Schwab
A. -- And I can understand that, but --

Nemeth
Q. ...indicate it would be the other way around. You're certain that you -- that you hit him five or six times?

[redacted]
A. Yes, sir.

Nemeth
Q. Okay. Is there a reason why you didn't write five to six times in your report?

[redacted]
A. No, sir. I do not -- as far as the report, I remember it was a long shift, I was tired but I remember after thinking over a year how many times and violently struggling with the inmate, you know, I feel more comfortable with five or six times.

Nemeth
Q. Okay. Let me ask you this. Where exactly did you hit him on his right thigh? His upper right thigh? The -- the -- the forward portion of it? In other words, the front part of his right thigh or the back part of his right thigh?

[redacted]
A. Back part of his right thigh, sir.

Nemeth
Q. What position was the inmate in when you were striking him there?

[redacted]
A. He was laying on his stomach.

Nemeth
Q. Okay. And you were using your right fist --

[redacted]
A. -- face down.

Nemeth
Q. Face down on his stomach and you were using his -- your right fist?

[redacted]
A. Yes, sir.

Nemeth
Q. What position were his legs in?

[redacted]
A. His legs, you know, he was violently moving his legs back and forth so his legs were proned out but he was constantly moving his legs up and down trying to sit up and get up in this fetal position moving his legs up.

Nemeth
Q. Okay. A fetal position, you mean roll on his side and coil your legs up towards your chest area and your arms down towards the side?

[redacted]
A. -- slide them up towards his chest, yes, sir.

Nemeth
Q. Okay. Did -- at this point you said earlier that you had immediately placed your left knee across the inmate's thighs? Is that correct?

[redacted]
A. Yes, sir.

Nemeth
Q. So, was your left knee in that position when you were punching him?

[redacted]
A. Ah, yes sir.

Nemeth
Q. You were in that position?

[redacted]
A. The first -- the first time I struck him, yes sir, I was still standing.

Nemeth
Q. Okay. Did any of your punches land on the inmate's testicle area or scrotum area?

[redacted]
A. No, sir.

Nemeth
Q. Is there a chance that one of them slipped off and hit -- hit the inmate's scrotum?

[redacted]
A. No, sir.

Nemeth
Q. No chance at all?

[redacted]
A. No, sir.

Nemeth
Q. You're absolutely certain where those punches were directed -- landed right where you intended them to?

[redacted]
A. Right on the thigh, sir. Yes, sir.

Nemeth
Q. Okay. All right. Well, you understand what I'm asking don't you?

[redacted]
A. Yes, sir. I heard that the inmate had lost a testicle.

Nemeth
Q. Okay. And by what you said so far you -- your positioning was in close proximity to the inmate's groin area. True?

[redacted]
A. Yes, sir.

Nemeth
Q. Okay.

Schwab
A. Well, it was on the opposite side. He said he struck the inmate on the back of the thighs.

Nemeth
Q. Which thigh were you striking on the inmate?

[redacted]
A. I was striking his right thigh, sir.

Nemeth
Q. Okay.

[redacted]
A. Back of his right thigh.

Schwab
A. I don't agree that that's close to the groin area.

Nemeth
Q. Okay.

Schwab
A. It's close to the buttocks area.

Nemeth
Q. Now, when -- okay -- when we're talking about thigh we're talking about -- what I envision in my mind is that portion of the back of this inmate's leg -- his upper leg above his knee -- from the portion above his knee to the portion just below his buttock. Is that what you're talking about when you say the rear thigh?

[redacted]
A. Yes, sir.

Nemeth
Q. Okay. Where on the rear thigh were you striking him, closer to the buttock or closer to the knee?

[redacted]
A. I would say right in the middle, sir.

Nemeth
Q. Right in the middle?

[redacted]
A. Yes, sir.

Nemeth
Q. Okay. So, in your own estimation from where you -- the area you were punching how much distance is it from there to where the inmate's groin area is or the area between his legs?

Schwab
A. Now, wait a second. The area between his legs on the back of the legs is not the groin area, sergeant. We don't agree with that.

Nemeth
Q. Well, what we're talking about -- just to make it simple --

Schwab
A. -- Okay. We don't agree with your interpretation or what your saying. I want it known for the record we don't agree with that.

Nemeth
Q. Okay. It's --

Schwab
A. -- And when you say distance, what are you referring to? Inches? Are you referring to circumference? What are you referring to?

Nemeth
Q. We're referring to inches. And Deputy [redacted], what I'm talking about is --

Schwab
A. -- That -- that's an impossible question for him to answer.

Nemeth
Q. Okay. Let's -- let's use a page to illustrate.

Schwab
A. There's no way he can answer that question. I wouldn't be able to answer that question.

Nemeth
Q. Okay. Well, --

Schwab
A. -- But maybe you can illustrate. Lie down on your stomach and we'll measure the distance between the back of your thigh to your groin area.

Nemeth
Q. Will you be illustrating on this form here, Deputy [redacted]? We're talking about an inmate that's laying face down. Correct?

Schwab
A. We note for the record that the sergeant has drawn a stick figure, obviously not to scale.

Nemeth
Q. Okay. This would be the inmate's head. The arrow indicating he's facing towards the floor. The floor is down. He'd be laying on his stomach. These are his arms. Okay. This would be the inmate's left arm and the right arm. Right leg. Left leg.

Schwab
A. Okay. Where's his foot on that diagram.

Nemeth
Q. Okay. Yeah, this would be the feet down here. This would be the inmate's knees, these circles here. I want you to show me, Deputy [redacted], with this pencil, just go ahead and mark where you were punching.

[redacted]
A. Right in this area, sir.

Nemeth
Q. Okay. And write -- just write punching there. Is that five to six times?

[redacted]
A. Yes, sir.

Schwab
A. Okay. Sergeant, this is not a valid drawing. This is not a valid demonstration of what you are trying to ask the deputy. We don't agree with that. There is no distance between where the deputy was and the groin area.

Nemeth
Q. Okay.

Schwab
A. The inmate, sergeant, was on his stomach.

Nemeth
Q. Thank you.

Schwab
A. The deputy was not near the groin area and we don't agree with your interpretation of that. You can draw all the stick figures that you want, but they are not to scale and they are not accurate.

Nemeth
Q. Thank you, Miss Schwab.

Schwab
A. You're welcome, sergeant.

Nemeth
Q. Deputy [redacted], where were you positioned when you were punching him? Show me where you are by placing an X.

[redacted]
A. I was laying basically across his legs in the knee area.

Nemeth
Q. Laying or kneeling across --

[redacted]
A. -- My knee -- my knee -- my left leg was on the back of his knees --

Nemeth
Q. -- Okay. --

[redacted]
A. -- at that point, the first time the struck the inmate.

Nemeth
Q. Alright. Well, which way were you facing?

[redacted]
A. I was facing this way, sir.

Nemeth
Q. This direction?

[redacted]
A. Yes, sir.

Nemeth
Q. Just draw for me with a little line how you were kneeling across. Was it across both legs or just the one?

Schwab
A. If you know.

[redacted]
A. Yes, sir, I don't remember if at that point the first time I struck him if it was both legs.

Nemeth
Q. Okay. But it was one for sure?

[redacted]
A. It was one for sure.

Nemeth
Q. The -- the right one. Is that what you're saying?

[redacted]
A. It was the right leg, right across here.

Nemeth
Q. Alright. So, right across the back of his knee area on an angle -- upward angle?

[redacted]
A. Yes, sir.

Nemeth
Q. Okay. Were the inmate's legs closer, farther apart or about the distance that's represented here?

Schwab
A. The distance is approximately -- wait -- there's varying distance between the top of the thigh area and the leg --

Nemeth
Q. -- Correct. --

Schwab
A. -- and the bottom of the leg. So, when you say distance which distance are you referring to, sergeant?

Nemeth
Q. Okay. Well, let's refer to the distance between his knees. In other words, in this figure -- this stick figure represents what I would call a spread eagle type configuration of the body. Was it -- was his legs spread apart like that in a Y fashion or were they closer together?

[redacted]
A. Throughout the whole incident, sir, they were constantly moving --

Nemeth
Q. -- moving different --

[redacted]
A. -- Yes, sir.

Nemeth
Q. Okay. At the time you applied the punches what -- what were the condition of his legs? Was the positioning then?

[redacted]
A. I don't remember, sir.

Nemeth

Q. You don't remember. Okay. When you're punching right here what's the distance from the area you were punching which you represent here and I'm not asking on this stick figure. I'm asking from your memory what's the distance from the area you were punching to -- to what's represented in this diagram as the area where the inmate's legs come together in his torso. And you may call that the crotch. You may call that the buttock area, anal area whatever -- whatever you want to refer to it. What's that distance?

[redacted]

A. I would say approximately 8 inches.

Nemeth

Q. Eight inches away?

[redacted]

A. Eight to 10 inches away, yes sir.

Nemeth

Q. Okay. So, based on that is what you answered earlier. There's no chance that your -- one of your blows slipped off or was misdirected and -- and contacted the inmate's testicles which would be located 8 to -- at least 8 to 10 inches away. Right?

Schwab

A. And also on the other side of the inmate.

Nemeth

Q. Is that correct?

[redacted]

A. That's correct, sir.

Nemeth

Q. Okay. All right. Actually, let me have you sign this for me just to show that that's the same paper we're talking about.

[redacted]

A. Where would you like me to sign it, sir?

Nemeth
Q. Anywhere. On the bottom is fine. Okay. All right. [redacted], when you first heard Deputy [redacted] say there's a deputy involved 415 in Module 4400, is that what he said?

[redacted]
A. Yes, sir.

Nemeth
Q. Okay. So, you knew you were going to 4400. Is that right?

[redacted]
A. Yes, sir.

Nemeth
Q. Okay. How much time do you estimate elapsed from the time you first learned of it, left the 5000 patrol booth, until you arrived and saw Deputy Kluth being held in a -- in a choke hold by the inmate?

[redacted]
A. Time that it took us to run from 5000 to 44[00] approximately 15 seconds. 20 seconds.

Nemeth
Q. Okay. And you said [redacted] entered the door first --

[redacted]
A. -- Yes, sir.

Nemeth
Q. And do you remember was the door -- was anybody at the door?

[redacted]
A. What door, sir?

Nemeth
Q. The one door -- the main door to Module 4400.

[redacted]
A. One gate. No, sir.

Nemeth
Q. You don't remember anybody being there?

[redacted]
A. I don't remember anybody being there, sir.

Nemeth
Q. Okay. And you got in and what did [redacted] do?

[redacted]
A. I saw [redacted] run towards Deputy Kluth and the inmate and go up towards his upper torso area as I went down to his legs.

Nemeth
Q. Okay. You said, if I understand your story correctly, when you came in you saw Kluth being held by the inmate and how much time elapsed between when the time you saw him standing and the time they went down?

[redacted]
A. A matter of seconds, sir.

Nemeth
Q. Okay. Quickly. Right?

[redacted]
A. Yes sir.

Nemeth
Q. And you -- you said you didn't know if that was an intended event. All you knew is they went down?

[redacted]
A. Yes, sir.

Nemeth
Q. And you described for us how they went down. Did the inmate release his -- that grasp he had on Kluth when they went down to the floor?

[redacted]
A. I don't remember. You know, with them going down just in a pile of bodies. I don't remember if Deputy [redacted] or Deputy Kluth

had broke away from the choke or if he went down in the choke and then released. I don't remember.

Nemeth
Q. Okay. You said you immediately went for the legs. Right?

[redacted]
A. Yes, sir.

Nemeth
Q. And [redacted], do you know what he was doing?

[redacted]
A. At that point?

Nemeth
Q. Right.

[redacted]
A. I remember him struggling trying to get the right arm behind his back, yelling, "Give my your right arm." At that point, that's when I was struggling with Deputy Kluth.

Nemeth
Q. Okay.

[redacted]
A. To get the left arm.

Nemeth
Q. You were struggling with Deputy Kluth together working on the left arm?

[redacted]
A. Yes, sir.

Nemeth
Q. Of the inmate?

[redacted]
A. Yes, sir.

Nemeth
Q. Okay. By virtue, what you're saying you and Kluth are working together on -- to restrain the inmate's left arm and Romero -- I mean, [redacted] is working with the inmate's right arm which had previously been holding Kluth. Right? So at least at that point, Kluth is freed. Correct?

[redacted]
A. Yes, sir.

Nemeth
Q. And -- and how much time after they went to the floor are you doing this? In other words, how much time elapsed? Was this real quickly in a matter of seconds afterwards?

[redacted]
A. Yes, it's a matter of seconds.

Nemeth
Q. Okay. So, Kluth was freed from the inmate's choke hold -- control hold whatever you want to say within a matter of seconds after they hit the floor together? Correct?

[redacted]
A. Yes, sir.

Nemeth
Q. Okay. Now, is there anybody else -- any other deputies struggling with the inmate at this time or is it just the three of you -- you, [redacted] and Kluth?

[redacted]
A. That is correct, sir.

Nemeth
Q. Just the three of you?

[redacted]
A. Yes, sir.

Nemeth
Q. Okay. And had you seen Sloan, yet, at all at this point?

[redacted]
A. No, sir.

Nemeth
Q. Did you hear him talking or anything of that nature?

[redacted]
A. No, sir.

Nemeth
Q. Did anybody else come and help you guys at this point?

[redacted]
A. No, sir.

Nemeth
Q. No. Okay. What happens next, then?

[redacted]
A. At the point that -- after I struck him the five to six times, I looked up. I saw Deputy [redacted] still struggling with his right arm. I struck him two more times and that's when I saw Deputy Sloan come out of the corner of my eye to help out with Deputy [redacted].

Nemeth
Q. Nobody's helping Kluth on the left arm?

[redacted]
A. No, sir.

Nemeth
Q. Okay. Then what happens next?

[redacted]
A. That's when I tried to gain control of his legs. Basically, I laid down on top of him. He's still struggling violently -- struggling, kicking his legs. I'm having, you know, a real hard time fighting with his legs trying to gain control of them. I eventually -- I grabbed hold of his legs and -- and do like a bear hug around his legs. I was going like this around his legs. And that -- that's about it.

Nemeth
Q. Where -- where on his legs did you apply the bear hold?

[redacted]
A. About the knee area just above the knees on the thighs.

Nemeth
Q. Okay. And when you did that, was the inmate still laying face down at this point, on his chest and stomach?

[redacted]
A. Yes, sir.

Nemeth
Q. Okay. And where was the rest of your body when you're -- you indicated for -- take -- with both your arms extended in front of you in a circle, you grabbed your wrist with one hand to stimulate a bear hug.

[redacted]
A. If I can remember correctly, I ended up on the inmate's left hand side.

Nemeth
Q. Okay.

[redacted]
A. And -- and holding him on the left hand side. So, at this point, I'm now over on this side over here.

Nemeth
Q. Okay. And are you facing this way holding him like this or facing this way holding him with his feet below you?

[redacted]
A. His feet were below me. Holding them like this.

Nemeth
Q. So, that would put you basically pointing this way holding him around like that? Is that right?

[redacted]
A. My face, at that point, I was laying across this way and facing up towards this way.

Nemeth
Q. And your arms wrapped this way?

[redacted]
A. Yes, sir.

Nemeth
Q. So, were you laying in this direction or this direction?

[redacted]
A. I was laying across.

Nemeth
Q. Across and had him -- okay. Why don't we go ahead mark that on your form her to show how you were --

Schwab
A. What's he supposed to mark?

Nemeth
Q. Just show how you were laying across the inmate's legs. Where they closer together than that at this point?

[redacted]
A. Yes, sir.

Nemeth
Q. Just draw another quick stick figure. Show how close the legs were together and how you laid across them.

Schwab
A. Sergeant, drawing a stick figure is not an accurate rendition of the event.

Nemeth
Q. Okay.

Schwab
A. Whether it's you or the deputies drawing it.

Nemeth
Q. Well, what it is is it's just a tool like anything else to show.

[redacted]
A. Just like that?

Nemeth
Q. Yeah, draw the rest of him in there.

Schwab
A. Well, but you're using it to show how close

(End of Side A of Tape 1)

Nemeth
Q. What we're saying on the other side is this stick figures are just being used as a tool to help illustrate -- to help paint a picture because it is -- we're talking about abstracts and things just to get an idea. Nothing -- we're not measuring on this paper how far away you were or anything like that. But which way -- show me which way your head was here on this little mark you put across.

[redacted]
A. I'd say my head was down here.

Nemeth
Q. Okay.

[redacted]
A. My arms wrapped around the inmate's legs and my feet down here.

Nemeth
Q. Okay. And your arms are wrapped somehow right in here across this would represent the inmate's knee area. Is that right?

[redacted]
A. Yes, sir.

Nemeth
Q. Draw -- just draw me a little lap around there. Okay. And this is -- these are your arms and this is [redacted] and this is inmate [redacted]. Correct?

[redacted]
A. Yes, sir.

Nemeth
Q. Okay. Alright. So, you gain control of the legs by placing yourself in that position and what's going on up here? What else is happening?

[redacted]
A. At that point, Deputies Sloan and [redacted] and Kluth are handcuffing the inmate.

Nemeth
Q. Okay. And I think you previously said Sloan and [redacted] were on the same side which is the inmate's right arm.

[redacted]
A. Yes, sir.

Nemeth
Q. And Kluth is by himself on the inmate's left arm?

[redacted]
A. Yes, sir.

Nemeth
Q. Okay. And you're doing the legs down here. Is that right?

[redacted]
A. That is correct, sir.

Nemeth
Q. Okay. Alright. So, he gets handcuffed. What happens next? Do you stay in that position? Do you change positions?

[redacted]
A. After he gets handcuffed, I remember standing up walking around the inmate. He had started struggling and kicking his feet

again. So, I went back down on his legs and that's when Deputy Sloan hobbled the inmate. Placed the hobble around his ankles and then secured the hobble to the handcuffs.

Nemeth
Q. When you say you went back down on the inmate. Back into this position that you indicated here?

[redacted]
A. At that point, I went back around this way. He started to struggle again and I went back down across his legs to gain control of his legs again so we could hobble him.

Nemeth
Q. From the other side --

[redacted]
A. -- I'm now facing this way.

Nemeth
Q. Okay. So, you moved to the right side and then laid across his legs.

[redacted]
A. Yes.

Nemeth
Q. Is that right? In a similar position? Just the opposite way?

[redacted]
A. Yes, sir.

Nemeth
Q. Or you indicated with a little angle here?

[redacted]
A. No, in the same position laying across his legs.

Nemeth
Q. Okay. Just facing the other direction this time?

[redacted]
A. Yes, sir.

Nemeth
Q. Okay. Alright. Now, we got this which is kinda like a -- a blow up of what we're talking about. That's page two. Put your signature on the bottom of that for me. Now, I'm gonna show you a schematic that we use and to just get an idea of where you saw things at the different points in this incident. Does this appear to be an accurate schematic of the layout of Module 4400 with this being the one gate -- main door. This being the 4000 main hallway. This being the entry sally port area. The shower. Day room. The module gates. The module officer's control booth door. Does that appear to be accurate?

[redacted]
A. That is correct, sir.

Nemeth
Q. Okay.

Schwab
A. The other diagrams indicate this was not to scale. This is no different then any other diagram. Is that correct?

Nemeth
Q. That's right. This one does not have a "not to scale." Yes, that's correct. Not to scale.

Schwab
A. It's our position that if they're not to scale they don't have much usefulness mainly because you're trying to get exact positions exact distances and they're not able to do that especially where it's not to scale.

Nemeth
Q. Okay. Well, were just using it as a -- a point of reference to show in relationship to the other fixtures in the module where you and the inmate were and then we can use this again as a tool -- this isn't, you know, diagram to end all diagrams. We just use this as a tool and then I can ask you questions from this. Do you understand, Deputy [redacted]?

[redacted]
A. Yes, sir.

Nemeth
Q. Okay. Show for me where you first saw [redacted] and Kluth by drawing circles to represent each and put a [redacted] for inmate [redacted] and put a K for Kluth. How they were when you first arrived in Module 4400. Okay. And put a circle around each. Okay. Put a K and a [redacted] and you placed the [redacted] slightly towards the B row gate with the K in front of it standing more towards the main entry hallway. Is that about --

[redacted]
A. -- Yeah, kinda offset.

Nemeth
Q. Okay. Offset. --

[redacted]
A. -- to the sally port.

Nemeth
Q. Okay. And that -- and [redacted] is facing this direction then. Is that right?

[redacted]
A. Yes, sir.

Nemeth
Q. Is that arrow accurate, show which way he's facing?

[redacted]
A. Approximately, yes, sir.

Nemeth
Q. Okay. And that would place inmate [redacted] right side and [redacted] right arm.

[redacted]
A. Yes, sir.

Nemeth
Q. Like you've described earlier.

Schwab
A. Wait. Wait. You said that [redacted] was facing this direction and that would place him on [redacted] right side. Who were you referring to?

Nemeth
Q. Deputy Kluth. Deputy Kluth. Places Kluth in the circle where you positioned him here. Right?

[redacted]
A. Yes, sir.

Nemeth
Q. Okay. And then when they fall where do -- show me how the inmate was laying face down. Show me just with a stick figure draw where ever it is in here where you saw him laying face down.

[redacted]
A. Okay. When we ran in I first saw Deputy Kluth standing here --

Nemeth
Q. -- Right. --

[redacted]
A. -- struggling with inmate [redacted] --

Nemeth
Q. -- Uh-huh. --

[redacted]
A. -- taking -- go to the D row towards the shower area and that's when they started falling. So, --

Nemeth
Q. -- You want to put a dash line and show where they went in however way --

[redacted]
A. -- I'd say they went over a couple of paces this way --

Nemeth
Q. -- Okay. --

[redacted]
A. -- and then they fell that way.

Nemeth
Q. Alright. Show -- just show me the inmate's body position with the stick figure indicate where his head landed and where his feet and arms were.

[redacted]
A. Approximately like so.

Nemeth
Q. All right. That's the inmate there. Right?

[redacted]
A. Yes, sir.

Nemeth
Q. You just indicated. And just for the tape what you did is you -- you made his head facing closest to what would be the B and D row shower area. Is that right?

[redacted]
A. Yes, sir.

Nemeth
Q. And pointing on an angle towards the corner of where the B and D row showers meet the mop closet area. Correct?

[redacted]
A. Yes, sir.

Nemeth
Q. Okay. And you took up a position on the right side of the inmate. Correct? By his legs immediately. Is that right?

[redacted]
A. Yes, sir.

Nemeth
Q. Okay. Where did you see Deputy or did you see Deputy Sloan there at any point up to this point?

[redacted]
A. At that point, no I did not.

Nemeth
Q. Okay. Did you know he was there or not know he was there?

[redacted]
A. I did not know he was there.

Nemeth
Q. Okay. And show me where the other deputies positioned themselves as the event unfolded and you started to handcuff the inmate.

[redacted]
A. I remember seeing Deputy [redacted] being right here.

Nemeth
Q. Go ahead. You can a circle with an [redacted] for [redacted]. Okay.

[redacted]
A. And then Deputy Kluth basically right here.

Nemeth
Q. And yourself. Draw a circle with an [redacted] for yourself. And then show me where Sloan is with a circle [redacted] -- [redacted] and -- SL for Sloan.

[redacted]
A. At that point, sir, I don't know where Deputy Sloan is.

Nemeth
Q. Okay. At some point, Sloan comes out. Correct?

[redacted]
A. Yes, sir.

Nemeth
Q. And where did -- where did he then position himself when he came out?

[redacted]
A. I saw him come around out of the corner of my eye and right here--

Nemeth
Q. -- towards what would be the right side of the inmate's head?

[redacted]
A. Yes, sir.

Nemeth
Q. Okay. Alright. Very good. Now -- now the we have that -- some understanding of that. What happened now -- you -- you've got the -- the inmate's handcuffed and hobbled what -- what happened next?

[redacted]
A. At that point after ah, as Deputy Sloan was placing the hobble on the handcuffs, I stood up, I turned around and I walked over towards the pay phone. I saw Deputy Kluth sitting on a crate. I'm trying to catch my breath. I looked at Deputy Kluth or Deputy [redacted], excuse me, by the pay phone.

Nemeth
Q. Was it [redacted] that was sitting on the crate by the pay phone?

[redacted]
A. [redacted] was there sitting by the pay phone.

Nemeth
Q. All right.

[redacted]
A. I looked up at [redacted] and he says to me, "Are you okay?" And I asked him if he was okay. And we say, "Yes."

Nemeth
Q. Okay and when you say the pay phone are you referring to the pay phone that's indicated on this schematic here?

[redacted]
A. Yes, sir.

Nemeth
Q. Okay. When you first arrived in the module did you see an inmate using this pay phone or talking on it?

[redacted]
A. No, sir.

Nemeth
Q. Did you see a trusty standing near the C row gate?

[redacted]
A. No, sir.

Nemeth
Q. Okay. Did you ever see an inmate in the shower area over here?

[redacted]
A. Yes, I did, sir.

Nemeth
Q. Okay. What did he look like?

[redacted]
A. I remember just seeing a white male.

Nemeth
Q. Okay. Where did you see him exactly?

[redacted]
A. The point that I saw Deputy Sloan come over I saw the inmate standing right by the bars and I yelled at the inmate, "Get away from the bars. Get away from the bars."

Nemeth
Q. Who -- who did that?

[redacted]
A. I did that, sir.

Nemeth
Q. You yelled at the inmate, "Get away from the bars."

[redacted]
A. Yes, sir.

Nemeth
Q. Why did you do that?

[redacted]
A. I didn't know who he was. It's still a pretty violent situation. I got deputies with their backs to the bars -- close proximity to the bars. I want to make sure, you know, he doesn't stick something into them. So, I want him to get away from the bars.

Nemeth
Q. Okay. Was -- was the -- was the inmate that you saw in the Baker row shower is that where you saw him in the Baker row shower?

[redacted]
A. Baker row being the lower shower?

Nemeth
Q. Right.

[redacted]
A. Yes, sir.

Nemeth
Q. Okay. Was he in such a position that he could've reached out and punched or stabbed the deputies or done something like that?

[redacted]
A. In my opinion, yes, sir.

Nemeth
Q. Okay. What's the distance if you can estimate and it's just an estimate between the inmate's head here where you indicate and -- and this area which is gonna represent the bars of the Baker row shower right here. What's that distance?

[redacted]
A. Talking probably a foot.

Nemeth
Q. About a foot?

[redacted]
A. Yeah.

Nemeth
Q. Okay. How close was Sloan to the bars? Less than a foot, then or same about a foot?

[redacted]
A. I would say he was right up on the bars about a foot from the bars.

Nemeth
Q. Okay.

[redacted]
A. Maybe a little bit less than a foot.

Nemeth
Q. Okay. And are you familiar with the Baker row shower area in this module?

[redacted]
A. From what I remember, yes, sir.

Nemeth
Q. Okay. Is there a bench -- hold on a second. Take a break for a tape change here. Is there a bench located in the Baker row shower below these bars in this area?

[redacted]
A. I don't remember, sir.

Nemeth
Q. Okay. Could you see the inmate's face from the bars up from where the floor right here this floor where the inmate's laying on? Could you see the inmate's head up?

[redacted]
A. Yes, sir.

Nemeth
Q. Okay. All right. Do you know if the inmate was standing on this bench below here or not?

[redacted]
A. I don't remember, sir.

Nemeth
Q. Alright. And you told the inmate to get away from the bars. Is that right?

[redacted]
A. I told him to back up. Yes, sir.

Nemeth
Q. Okay. Did Sloan ever say anything to the inmate? Direct the inmate to get away or anything like that?

[redacted]
A. Not that I remember, sir.

Nemeth
Q. Did you say anything else to the inmate besides get away from the bars? Did you give him any specific instruction or anything?

[redacted]
A. No, sir. I just told him to back up away from the bars.

Nemeth
Q. And what did the inmate do in response?

[redacted]
A. If I remember correctly, he started to back up but then I started struggling again with the inmate's legs so I lost sight of him at that point.

Nemeth
Q. Okay. Did anybody else ever direct this inmate to do anything?

[redacted]
A. Not that I remember, sir.

Nemeth
Q. Okay. Alright. Did you see a trusty on the D row -- Denver Row, sally or upper tier area near the stairs?

[redacted]
A. No, sir.

Nemeth
Q. Did you see an inmate in the laundry room in this area here?

[redacted]
A. No, sir.

Nemeth
Q. All right. When Deputy Sloan came to relieve or not to relieve -- when Deputy Sloan came in to assist with the inmate -- restraining him, do you know where Sloan came from?

[redacted]
A. At that point?

Nemeth
Q. Yes.

[redacted]
A. No, sir.

Nemeth
Q. Okay. Did you see any other deputies coming into the module?

[redacted]
A. At the point where we were handcuffing him, yes sir, I did.

Nemeth
Q. Who did you see come in?

[redacted]
A. I don't remember who they were, sir. At the point that I was struggling with him on his legs all I saw was boots were on my -- the sides of me and I don't remember who they were.

Nemeth
Q. Okay. Did they -- those -- the people that were in those boots did they help you with the legs or did they just stand around?

[redacted]
A. I don't remember, sir. I just -- I'm struggling -- still struggling with the inmate's legs and I don't remember them doing anything. I do remember someone kneeling down to me on my left hand side, but I don't know who that was or what they were doing.

Nemeth
Q. Okay. You don't know who that was. What did they do when they knelt down on your left hand side?

[redacted]
A. I just remember them kneeling down. I don't know what they were doing.

Nemeth
Q. Uh-huh. If somebody was to assist you in holding the inmate's legs down by placing their hands near the inmate's ankles towards the end of the inmate's leg towards his ankle area would you have known that?

[redacted]
A. At the position that I was in?

Nemeth
Q. Yes.

[redacted]
A. If they were behind me, no sir.

Nemeth
Q. It's possible they could've done it and you not knowing about it?

[redacted]
A. Yes, sir.

Nemeth
Q. Okay. And how about when you -- the inmate was being hobbled? Did you see those people release their hold on the legs so the inmate could be hobbled?

[redacted]
A. Well, at that point, I stood up --

Nemeth
Q. -- Uh-huh. --

[redacted]
A. -- started walk around and that's when I saw Deputy Sloan come around. He started struggling again and I went right back down on his legs because I didn't want the inmate to stand up. He was making a movement as trying to get up --

Nemeth
Q. -- Uh-huh. --

[redacted]
A. -- So, I went back down on his legs.

Nemeth
Q. Okay. You know, Deputy Kammer?

[redacted]
A. Kammer? Yes, I know Deputy Kammer.

Nemeth
Q. Okay. Was he in your academy class?

[redacted]
A. My academy class? No, sir.

Nemeth
Q. Has he worked the early morning shift with you for some time prior to this incident?

[redacted]
A. Yes, sir.

Nemeth
Q. Okay. Do you know him on sight?

[redacted]
A. Yes, sir.

Nemeth
Q. Did you Kammer in the module?

[redacted]
A. After the incident was over, yes, I remember Kammer being there.

Nemeth
Q. Pardon me.

[redacted]
A. I remember Kammer being there after the incident. Yes, sir.

Nemeth
Q. Okay. Anybody else you remember being there?

[redacted]
A. I remember seeing Deputy Broad.

Nemeth
Q. At what point did you see Broad?

[redacted]
A. After the inmate was hobbled.

Nemeth
Q. Okay.

[redacted]
A. I remember seeing Deputy Barrett, also, inside the module.

Nemeth
Q. Alright. Anybody else?

[redacted]
A. Sergeant Mosley. Senior Jackson. Deputy Christolon and Deputy [redacted].

Nemeth
Q. Alright. And when you saw Broad and Kammer did you talk to them?

[redacted]
A. At that point, no, sir.

Nemeth
Q. Did you ever learn that they were involved in assisting you guys with the inmate.

[redacted]
A. At that point, no, sir.

Nemeth
Q. Now, did you ever?

[redacted]
A. Did I ever?

Nemeth
Q. Yes.

[redacted]
A. No, sir.

Nemeth
Q. You never learned that they were there present and helped out?

[redacted]
A. I remember seeing deputies there but I don't know who they were.

Nemeth
Q. Well, you know Kammer. We already said that, right? You said you known Kammer--

Schwab
A. -- That's not what he said, sergeant. He said he didn't remember who was there when the deputies showed up. (inaudible).

[redacted]
A. I remember seeing Kammer inside the module but I don't know the deputies that I saw on either side of me.

Nemeth
Q. Okay. And you never later learned that Kammer and Broad helped out -- helped you out by restraining the inmate's legs?

[redacted]
A. No, sir.

Nemeth
Q. Alright. So, after this is over -- the inmate's hobbled. What happens next?

[redacted]
A. I walk over to the phones where Deputy [redacted] was sitting on a crate. I walk over to Deputy [redacted], I look at him and we both say to each other, "Are you okay?" "I'm okay." We're both breathing heavy. Get ourselves together. I remember the inmate still screaming and yelling. I walked back over to the inmate. I told him -- said to the inmate, I said, "Okay, it's all right and we got help on the way. Just relax. You don't need to be, you know, screaming or yelling."

Nemeth
Q. Was he screaming in pain or?

[redacted]
A. No sir. He was screaming something to the effect, "The bloods. The bloods did it. The bloods in my cell." Something like that (inaudible).

Nemeth
Q. All right.

Schwab
A. When you say bloods you're referring to gangs members?

[redacted]
A. Yes, ma'am.

Nemeth
Q. Did you ever come to learn how this whole thing started?

[redacted]
A. How this whole thing started?

Nemeth
Q. Right. How Kluth came to be in -- in a head lock with the inmate holding on to him.

[redacted]
A. No.

Nemeth
Q. Never did.

[redacted]
A. No, sir.

Nemeth
Q. Did you read any reports connected with this incident besides the one you wrote?

[redacted]
A. At which time?

Nemeth
Q. At any time.

[redacted]
A. No, sir.

Nemeth
Q. You never have?

[redacted]
A. No, sir.

Nemeth
Q. Even as we sit here today and there's a package --

[redacted]
A. -- after the packet, yes, I've read the -- the reports when I got the packet from my lawyer.

Nemeth
Q. Okay. And did you read all of the reports that were included, not just your own the supplementary reports?

Schwab
A. Is this supposed to be a test, sergeant?

Nemeth
Q. No, it's a question.

Schwab
A. Okay. Well, why are you asking this?

Nemeth
Q. 'Cause I can ask him this question.

Schwab
A. No, you -- it's not a legitimate question.

Nemeth
Q. Yes, it is.

Schwab
a. No, it's not, sergeant.

Nemeth
Q. Okay. You're objection is noted that you don't feel it's a legitimate question.

Schwab
A. Sergeant, you're just trying to argue with the deputy. What is your point here? Is he supposed to be an expert on everybody else's statement?

Nemeth
Q. No.

Schwab
A. Is that your point?

Nemeth
Q. That's not the point. There's a question here.

Schwab
A. What's the question?

Nemeth
Q. Deputy [redacted], the question is, did you read the other reports contained in this package aside from your own?

[redacted]
A. Yes, sir, I have.

Nemeth
Q. Okay. And is that when you received this from your attorney that you did that?

[redacted]
A. Yes, sir.

Nemeth
Q. Okay. And in -- in reading this -- reading the other reports that were submitted in connection with this incident did you learn how this event started?

[redacted]
A. Yes, sir.

Nemeth
Q. Okay. And when this -- when this concluded in your talking to Deputy Romero at the phone booth sitting on the bucket what --

Schwab
A. He wasn't talking to Deputy Romero.

Nemeth
Q. I'm sorry. Deputy [redacted]. What -- what happened? Did you eventually report this to some supervisor? What you were involved with?

[redacted]
A. Yes, sir.

Nemeth
Q. Who did you report to?

[redacted]
A. I reported it to Sergeant Mosley.

Nemeth
Q. Okay. And were you by yourself or were you with somebody?

[redacted]

A. At that point I was inside the sally port. I remember Sergeant Mosley asking me if I was involved. I told Sergeant Mosley, "Yes, I was involved." He asked me what I had done. I explained to him what I had -- the force that I had used on the inmate and he said, "Okay. You're going to have to go report this to the watch commander."

Nemeth

Q. Okay. And did you do that then?

[redacted]

A. Report it to the watch commander?

Nemeth

Q. Yes.

[redacted]

A. Yes, sir.

Nemeth

Q. Okay. Who was the watch commander that night?

[redacted]

A. It was Sergeant Duncan.

Nemeth

Q. Okay. Now when you reported to Sergeant Duncan were you by yourself or were you with someone?

[redacted]

A. We were with all four of us, Deputy Kluth, Deputy [redacted], and Deputy Sloan, and myself.

Nemeth

Q. Okay. And did you speak or did somebody else speak for you?

[redacted]

A. I told Sergeant Duncan that I had struck the inmate in his thigh and I struck him again and helped in the handcuff or the hobbling of the inmate.

Nemeth
Q. Okay. And did Sergeant Duncu -- did Sergeant Duncan ask you if you kicked the inmate?

[redacted]
A. Did he ask me if I kicked the inmate?

Nemeth
Q. Yes.

[redacted]
A. He asked if anybody had kicked the inmate, yes.

Nemeth
Q. Okay. And did you answer that question?

[redacted]
A. Yes, I did sir.

Nemeth
Q. And what did you say?

[redacted]
A. I said, "No, sir."

Nemeth
Q. Okay. Did you hear the other people answer the question?

[redacted]
A. I don't remember, sir.

Nemeth
Q. Okay. And how about -- did Sergeant Duncan ask you did you use an impact weapon or flashlight on the inmate?

[redacted]
A. Yes, sir.

Nemeth
Q. And what did you say?

[redacted]
A. I said, "No, sir."

Nemeth
Q. You said you did not?

[redacted]
A. I did not hit the inmate with an impact weapon.

Nemeth
Q. Okay. Now I'm gonna ask you. Did you hit the inmate with a flashlight or any impact weapon that night?

[redacted]
A. No, sir.

Nemeth
Q. Okay. Did you have a flashlight with you that night?

[redacted]
A. Yes, sir, I did.

Nemeth
Q. But you didn't use it?

[redacted]
A. No, sir, I did not.

Nemeth
Q. Is there a reason why you didn't use it?

[redacted]
A. No, sir.

Nemeth
Q. Didn't it occur to you to use it?

[redacted]
A. It didn't occur to me.

Nemeth
Q. Okay. And how about OC spray, did you have any OC spray available to you that night?

[redacted]
A. Yes, I did, sir.

Nemeth
Q. You had it on your person?

[redacted]
A. Yes, sir.

Nemeth
Q. Okay. And did you use any OC spray?

[redacted]
A. No, sir, I did not.

Nemeth
Q. Is there a reason you chose not to use OC spray?

[redacted]
A. Yes, sir.

Nemeth
Q. What is it?

[redacted]
A. Close proximity of Deputy [redacted] and Kluth in the head area. I felt that it wouldn't be a wise decision to spray 'cause it could've affected the -- the two deputies involved and having incapacitated the two deputies. I didn't want to take that chance.

Nemeth
Q. Okay. Did you communicate that to anybody?

[redacted]
A. No, sir.

Nemeth
Q. Okay. Did you -- did the watch commander ask you if you had a OC spray on you that night?

[redacted]
A. I don't remember, sir.

Nemeth
Q. Okay. Alright. And had you had any discussions with anybody about the use of OC spray after the event?

[redacted]
A. No, sir.

Nemeth
Q. Okay. Alright. So, did anybody that you saw hit the inmate with any impact weapon of any kind?

[redacted]
A. No, sir.

Nemeth
Q. Did any deputy involved kick the inmate?

[redacted]
A. No, sir.

Nemeth
Q. Okay. Alright. Did you at one point see Deputy Romero in the -- in the module after the event?

[redacted]
A. After the event? Yes, sir, I did.

Nemeth
Q. Okay. And had you take -- what was the first point you took notice of Deputy Romero in the module?

[redacted]
A. When I went in to, inside the security control booth to make a call down to the clinic that's when I noticed that Deputy Romero was inside the module.

Nemeth
Q. Okay. When you went into the control booth to call the clinic the 4400 control booth is what you're referring to, correct?

[redacted]
A. Yes, sir.

Nemeth
Q. Was that after you had gone to the pay phone here and talked to Romer -- I mean [redacted] --

[redacted]
A. -- I talked to [redacted]. I had went over and checked on inmate -- the inmate, calm him down, stop him from yelling. Couple of calls went out to the clinic to send a stretcher. They weren't coming. So, I went inside the control booth to actually call the clinic.

Nemeth
Q. Okay. And that's when the first point you saw Romero?

[redacted]
A. Yes, sir.

Nemeth
Q. Draw me a little circle with an R in it. Show me where he was standing when you first saw him.

[redacted]
A. I really don't remember if it was in the sally port area right here --

Nemeth
Q. -- Uh-huh. --

[redacted]
A. -- or in front of the area. I just remember seeing Deputy Romero in there.

Nemeth
Q. You can just draw a big square around the area you remember seeing him. Somewhere between here and there.

Schwab
A. He says he doesn't remember, sergeant.

[redacted]
A. Well, he also indicated it was either here or here. So, we can -- we can indicate that on our little schematic.

Schwab

A. And he said for the record, he doesn't recall specifically where he was.

Nemeth

Q. Okay.

[redacted]

A. I can't remember if it was inside the module, but I remember seeing him as I was walking into the module to make the call to the clinic I saw Deputy Romero. But I don't remember if it was outside the sally or in the sally port area walking into the module into the security area or if it was inside the security area.

Nemeth

Q. Was it near the entrance? You're not sure if he was outside or inside but was it near the entrance to this --

[redacted]

A. -- It was around this area, yes, sir.

Nemeth

Q. Okay. Draw me a square showing around this area. Or circle whatever you want to do. Okay. Alright. Put a little R around there somewhere. Okay. So, anywhere in that area, somewhere in this vicinity is where you say Romero? Correct?

[redacted]

A. Yes, sir.

Nemeth

Q. Okay. Do you know Deputy Romero?

[redacted]

A. Yes, sir, I do.

Nemeth

Q. And how do you know him?

[redacted]

A. I know him from work.

Nemeth
Q. Well, how would you classify your relationship with him?

[redacted]
A. I would say an acquaintance. I've played golf with him a few times.

Nemeth
Q. So, you've seen him socially outside of work?

[redacted]
A. A couple of times. Yes, sir.

Nemeth
Q. Okay. When was the last time you saw Deputy Romero?

[redacted]
A. Deputy Romero, probably the last time I saw him was when I was still working at CJ.

Nemeth
Q. Over a year ago?

[redacted]
A. Yes, over a year ago, sir.

Nemeth
Q. Okay. Did anything ever happen between you and Romero that would cause him to make any statements that were untrue about you or to try and get you into trouble or anything like that?

[redacted]
A. I have no idea, sir.

Nemeth
Q. You have no idea?

[redacted]
A. No. I wouldn't -- I would say no.

Nemeth
Q. Okay.

Schwab
A. And that's without being able to review your file based on your representation that he has --
Nemeth
Q. -- Alright. --

Schwab
A. -- apparently made untrue statements. So --

Nemeth
Q. -- Okay. --

Schwab
A. -- something of that nature.

Nemeth
Q. What -- what I want to tell you Deputy [redacted] is we've interviewed as you can obviously anticipate numerous other people and there are six specific witnesses who state that actions occurred in this module in addition to what you're saying. So, is -- what I want to make clear and make sure that we get a good record of is that have you told me everything you've seen happen in this module when you were involved in this incident?

[redacted]
A. Yes, sir.

Nemeth
Q. Okay.

Schwab
A. Again, sergeant, we're requesting that you show us exactly what those statements are so that the deputy can have a full and fair opportunity to address those alleged inconsistencies.

Nemeth
Q. Okay. Deputy [redacted], I'm under the requirement to follow the procedures of the Sheriff's Department just like you are and I cannot release those documents to you at this time. But what I am telling you is a true statement. We've interviewed six people who state substantially different from what you're stating and when I'm giving you the opportunity to do and what I'm calling you to recollect -- calling on you to recollect now is this document you

just signed when we started this interview requires you to give full complete and truthful statements regarding this incident. If it later comes out or of it's later alleged and proven that you have not given full and complete truthful statements that's an additional violation of Department policy which can be punishable by additional discipline up to including your discharge from the Department. Do you understand that?

[redacted]
A. Yes, sir.

Nemeth
Q. Okay.

Schwab
A. Sergeant, you're not giving him an opportunity to do anything if you don't provide us with those statements --

Nemeth
Q. -- Well --

[redacted]
A. -- (inaudible) consistent with what you're saying.

Nemeth
Q. Okay. What I'm telling you --

Schwab
A. That's your choice you can show us the documents you're choosing not to give him a full and fair opportunity. I want that noted for the record.

Nemeth
Q. It is absolutely noted for the second time at least on this tape. Deputy [redacted], what I'm stating to you is, I'm giving you the -- it's you that --- are sitting in this chair in this interview which is designed to give you the opportunity to tell us what happened and what you know. Okay. Now, I can't show you these documents but I can ask you and plead with you to tell me the absolute truth about what happened here. Is that what you're doing, Deputy [redacted]?

[redacted]
A. Yes, sir, I am.

Schwab
A. And sergeant is there a statement that Deputy [redacted] has made that you quarrel with or have a problem with or think is not true at this time?

Nemeth
Q. Well, there are several things that -- that are directly in opposition to other information we have. What I'm asking you is did you see --

Schwab
A. -- What are those things, sergeant? --

Nemeth
Q. -- well, let me --

Schwab
A. -- address that.

Nemeth
Q. I'm gonna ask you with a questions and we'll -- we'll get his answers to him. Deputy [redacted], did you see -- ever see anybody kick the inmate at all?

[redacted]
A. No, sir, I did not.

Nemeth
Q. Nobody, kick that inmate?

[redacted]
A. No, sir.

Nemeth
Q. Okay. Did you ever see anybody holding the inmate's legs apart while another person, another deputy was kicking him?

[redacted]
A. No, sir.

Nemeth
Q. Okay. Do you know -- well, we talked about the inmate going down. Tell me what you saw on the inmate? Did you notice any injuries on him when you went there to calm him down and everything as you stated?

[redacted]
A. I noticed that there was blood on the -- on the concrete.

Nemeth
Q. Okay.

[redacted]
A. At that point, he had blood like he's bearded and there was blood on his face. At that point, I did not know where the injury was coming -- you know, where the bleeding was coming from. Down in the clinic I do remember seeing a laceration about 3/4 of an inch laceration above and I can't remember which eye it was but it was above one of the eyes.

Nemeth
Q. Alright. And aside from that did you note any other injuries on the inmate?

[redacted]
A. No, sir.

Nemeth
Q. Did you later learn how the inmate sustained that particular injury you're referring to over one of his eyes?

[redacted]
A. Over his eye? No, I don't know, sir.

Nemeth
Q. Okay. And just to restate -- make sure we've got this -- you did not see any deputy involved in this use of force on this inmate strike him with any object? Is that correct?

[redacted]
A. That's correct, sir.

Nemeth
Q. Okay. Aside from yourself did you see any deputy punch the inmate with their fist?

[redacted]
A. No, I did not, sir.

Nemeth
Q. Did you see any deputy apply any type of knee thrust or anything?

[redacted]
A. I remember seeing Deputy [redacted] try a knee thrust but I'm not sure if he had connected with the knee thrust.

Nemeth
Q. Where was [redacted] at? Was he at -- where you indicated?

[redacted]
A. Right hand side. Yes, sir.

Nemeth
Q. Is that where he was when he applied this knee thrust?

[redacted]
A. Yes, sir.

Nemeth
Q. Alright. Did you see anybody else do any knee thrusts, kicks, anything, side kicks any -- any type of contact with the inmate?

[redacted]
A. No, sir, I did not.

Nemeth
Q. Okay. All right. And now we'll get back to what we were talking about when you first go here. You said you -- you heard the inmate lost a testicle. Is that what you said earlier in this interview?

Schwab
A. I don't think he said that.

[redacted]
A. I don't know if I heard -- said that earlier but I had heard that he had lost a testicle, yes, sir.

Nemeth
Q. Okay. And do you know how that came to -- to be?

[redacted]
A. The testicle being lost? No, I do not, sir.

Nemeth
Q. Okay. Was there anything that occurred in that use of force that in your mind could have caused an injury to this inmate's testicle?

[redacted]
A. In my opinion, I have no idea, sir...

Nemeth
So--

[redacted]
A. ...violently struggling with the inmate, you know, it could've happened during the struggle. I have no idea of for -- I have no way of saying how it occurred 'cause I don't know how it occurred. I have no idea his -- on how it could've occurred. It could've occurred in the fall.

(End of Side B of Tape 1)
(Side A of Tape 2)

Nemeth
Q. Okay. You were saying it could've occurred in the fall or what?

[redacted]
A. It could've occurred in the fall. But it's -- It could've occurred in the fall.

Nemeth
Q. Is there anything that -- that you saw deputies do that could've looked like kicking or had -- had the resemblance to

kicking at the inmate? Was there any body action that occurred in that event?

Gjendem

Q. Could we break for one second.

Nemeth

Q. Yeah, sure.

Gjendem

Q. I want to look at the tape. Just one second.

Nemeth

Q. Take a break. It's 1450 hours. Okay. What -- what I'm asking you is -- is there any body action during that event that it could've looked like deputies were standing there kicking the inmate in the groin?

[redacted]

A. Not that I remember sir.

Nemeth

Q. Did you ever see anybody hold the inmate's legs apart while other deputies kicked?

[redacted]

A. No sir.

Nemeth

Q. Just to make sure I heard you right, you saw nobody kick the inmate. Correct?

[redacted]

A. No sir.

Nemeth

Q. And you're stating that the inmate sustained this during this incident and it was during the fall or you don't know how. Correct?

[redacted]

A. I don't know how he sustained the injury.

Nemeth
Q. Now, in your -- in your report here do you ever see the word kicking mentioned anywhere in your report -- your supplemental report?

Schwab
Just a minute sergeant, we need to get to that page and we need a chance to review this.

Nemeth
Take your time.

[redacted]
A. I'm looking for the word "kicking." No sir.

Nemeth
Q. Can you tell me why you didn't write the word kicking even once in your report?

[redacted]
You mean as far as--

Schwab
A. What kind of question is that sergeant?

Nemeth
Q. Well, he must have used the term kicking at least a dozen times in his description of the incident to us today in this interview and I'm curious as how when he had the opportunity to write a report three hours --

Schwab
A. I don't think its been a dozen times and that's just your interpretation sergeant.

Nemeth
Q. Okay the record will bear me out.

Schwab
A. The record will speak for itself.

Nemeth
A. That's right.

[redacted]

A. My opinion or my statements of kicking is the inmate violently struggling kicking his legs.

Nemeth

A. Okay.

[redacted]

A. Moving his legs back and forth.

Nemeth

Q. Alright. You wrote the -- you wrote the term violently resist twice and violently struggle once and that is the extent of your description of what inmate [redacted] was doing. Is that correct? As reflected in this report here?

Schwab

A. The report speaks for itself sergeant. It's not a test.

Nemeth

Q. Right. Is there a reason why you didn't write more descriptive words, to indicate what the inmate was doing when you prepared this report?

[redacted]

A. At the time that I wrote the report, violently resisting, in my opinion was his struggling with the legs and dealing with trying to get up.

Nemeth

Q. Okay. But you never wrote anything in here about, the inmate doing anything with his legs did you?

Schwab

A. He said he violently resisted and was also violently struggling.

Nemeth

Q. All right. Does, does it say anything about the inmate's legs at all in here, in terms of what resistance he was offering.

Schwab

A. I think it's a matter of interpretation sergeant.

[redacted]
A. In my report, in my report..

Schwab
...answer this one.

[redacted]
A. I wrote in violently resisting, in my opinion, is was his thrashing about with his legs, yes. Because that's the area that I was in.

Nemeth
Q. All right. But you never wrote thrashing about his legs, anywhere in this report, did you?

[redacted]
A. No sir, I did not.

Nemeth
Q. Is that an oversight. You intended to write it, but left it out?

[redacted]
A. No. I wrote down violently resisting and that was my interpretation of what the inmate was doing.

Nemeth
Q. All right. Sergeant Gjendem.

Gjendem
A. Yes.

Gjendem
Q. Did Deputy [redacted] put the call out on his radio when you guys were going down to 4400?

[redacted]
A. I don't remember sir.

Gjendem
Q. Did you put it out on your radio?

[redacted]
A. No I did not sir.

Gjendem
Q. When you were going down to 4400, did you go by the 4000 control booth.

[redacted]
A. Yes sir, I did.

Gjendem
Q. Did you notify anybody that you were going down to the 4400 in the 4000 control booth?

[redacted]
A. No sir, I did not.

Gjendem
Q. Did you ever hear the fight put out on the radio?

[redacted]
A. I don't remember it going out over the radio. I don't remember hearing it. As soon as I heard 415 deputies involved my whole thought was just to get there.

Nemeth
Q. Did you ever hear it go out on the public address system?

[redacted]
A. That I remember, no, I did not sir.

Gjendem
Q. How was the inmate holding Kluth? Would you describe it as a choke hold with his right arm around Kluth's neck. ...directed towards the control booth door, is that correct?

[redacted]
A. Towards the one gate.

Gjendem
Q. Alright. Yes, Kluth was he bent over at the knees, bent over at the waist or what was he doing exactly? Or how was he, or what was his body position?

[redacted]
A. I'd say bent over, from what I can remember, bent over at the waist in a headlock or a choke hold by the inmate so he had to be bent over.

Gjendem
Q. Okay. And you just indicated with your two hands there or your arms there, the right arm bent at the elbow, the left arm bent at the elbow, with the hands clasped. Is that what you saw when you came inside the one gate?

[redacted]
A. No sir, I saw the right arm around Deputy Kluth's neck.

Gjendem
Q. And what was the left arm doing?

[redacted]
A. The left arm at that point, I really can't recall because as soon as I came in, I saw Deputy Kluth struggling with the inmate and I am right behind Deputy [redacted] as we run up and that's when they fall to the ground. So, I can't really say what the inmate's left arm was doing.

Gjendem
Q. You never saw the inmate using his left arm striking or hitting the deputy in the face or anything like that?

[redacted]
A. Not that I can remember sir.

Gjendem
Q. Okay. You first went down and held the legs, did you wrap them around like this -- interlock your fingers or what did you do exactly?

[redacted]
A. The first time that I went down, I placed my left leg on top...

Schwab
Do you want to go through this again sergeant?

Gjendem
No.

Schwab
We've already been through this about five times with Sergeant Nemeth. Do you want to do it again?

Gjendem
A. That's fine. We'll do it again. Did you lock your fingers and just hold on?

[redacted]
A. When I eventually laid down on top of him?

Gjendem
A. Yes.

[redacted]
A. Yes.

Nemeth
Q. You interlocked your wrists there?

[redacted]
A. Yes sir.

Gjendem
Q. Okay. And did somebody come to relieve you or to your aid or something like that.

[redacted]
A. That's when I saw people down by, we're talking about when I was laying on him, after we got him handcuffed or the point when Deputy Sloan came around and helped Deputy [redacted] handcuffed him. I saw people standing down by his ankle area towards my back as I was facing up.

Gjendem
Q. And you didn't take notice who those deputies were though?

[redacted]
A. No sir, I did not.

Gjendem
Q. But they were deputies?

[redacted]
A. Yes sir.

Gjendem
Q. (inaudible)

[redacted]
A. Yes sir.

Gjendem
Q. The first 5 to 6 punches that you threw on the right thigh, (inaudible) on the back of the right thigh right in the (inaudible) area. Is that correct? On the back of the thigh or more towards aft outer area.

[redacted]
A. They were just (inaudible). Punches to the meaty back part, portion of the thigh.

Gjendem
Q. I believe you said Sloan, [redacted] and Kluth handcuffed the inmate. Is that correct?

[redacted]
A. Yes sir.

Gjendem
Q. And you saw Sloan handcuff the inmate?

[redacted]
A. I saw him helping to bring the right arm back and handcuff him yes. But I don't remember after Sloan got there, ah, that's when I beared down to hold the legs close. So I couldn't say who put the handcuffs on him, but I know it was those three individuals that were up towards the inmate's head area.

Gjendem
Q. Do you know who handcuffed the inmate?

[redacted]
A. No, I do not.

Nemeth
Q. (inaudible)

[redacted]
A. (inaudible)

Nemeth
Q. (Inaudible)

[redacted]
A. (Inaudible)

Nemeth
Q. How long (inaudible). Is there anybody closer (inaudible). Was there anybody closer to this area, where the legs come together (inaudible). Did you ever see Deputy [redacted] reach his hand (inaudible).

[redacted]
A. (Inaudible).

Nemeth
Q. Okay. Do you believe that had he done that that would be an appropriate control hold?

[redacted]
A. (Inaudible).

Nemeth
Q. But nobody did that? Not that you remember, (inaudible). You don't remember it now, or what, (inaudible).

[redacted]
A. (Inaudible).

Nemeth
Q. (Inaudible). Okay, did you ever later learn how Sloan came to be in module?

[redacted]
A. Later on?

Nemeth
Q. Yeah, did you on learn that Sloan was in the module at the time the incident started?

[redacted]
A. Yes sir.

Nemeth
Q. Okay, and did you later learn that Deputy Romero came and relieved him in the control booth so that he could come out and assist you?

[redacted]
A. I don't remember that, sir.

Nemeth
Q. Did you ever ask Sloan, well, how did you, how did you come out of the module to help us with, you know, if you're relieving it, isn't there supposed to always be a deputy in this module control area?

[redacted]
A. Yes, there is, sir.

Nemeth
Q. You never asked that question of Sloan?

[redacted]
A. No, sir, I did not.

Nemeth
Q. Did you ever tell the watch commander, Duncan, Sergeant Duncan, that Deputy Romero was present during the incident?

[redacted]
A. During the incident?

Nemeth
Q. During the force, during the occurrence?

[redacted]
A. I don't remember him being there during the incident, sir.

Nemeth
Q. Okay, the question is, did you ever tell the watch commander that Deputy Romero was present in module 4400?

[redacted]
A. No, I did not, sir.

Nemeth
Q. Did you ever tell the watch commander that deputies, Deputies Broad, Kammer, and Barrett were also present in the module?

[redacted]
A. I did not tell the watch commander that, sir, no.

Nemeth
Q. Did you ever hear Sergeant Duncan tell Deputy Sloan to go back to module 4440 and look for witnesses?

[redacted]
A. I don't remember him saying that to Deputy Sloan, sir.

Nemeth
Q. Okay, did you look for any witnesses to the incident yourself?

[redacted]
A. No, sir, I did not.

Nemeth
Q. Okay, did anybody tell you to?

[redacted]
A. No, sir, they did not.

Nemeth
Q. I think Sergeant Gjendem might have a question for you.

Gjendem
Q. Yes, when you were bringing across the inmate, when you were down on the ground here, on the floor, had [redacted] reached in and grabbed the inmate's testicles, would you have seen that?

Schwab
A. That calls for speculation, sergeant.

[redacted]
A. I don't, I don't--

Schwab
A. Do you want, before you answer that, do you want him to speculate on that? That calls for speculation?

Gjendem
Q. Well, did you see him do it, did you see anybody reach in there and grab his testicles?

[redacted]
A. No, I did not, sir.

Gjendem
Q. And, at the time you were laying across his legs down here, were you, was your back to the inmate's head, or were you facing the inmate's head, or were you laying straight down?

[redacted]
A. Basically, you know, straight down, and I could look both ways.

Gjendem
Q. Looking both ways, and you're positive during that entire time when you were laying down here, that [redacted] was up on the inmate's right arm, is that correct?

[redacted]
A. Trying to get his right arm behind his back, yes, sir.

Gjendem
Q. Did you ever see [redacted] come down to the area of the buttocks area, and reach through or anything like that?

[redacted]
A. No, sir, I don't remember.

Gjendem
Q. Okay.

Nemeth
Q. Okay, that concludes the questions we have for you regarding this incident, Deputy [redacted], and I'll, there may be other information that we didn't ask you about that you feel is important to get out. This is your opportunity to state that. Is there anything that you're aware of at this time, regarding this incident, that we haven't asked you that has a bearing on your involvement in it, and the questions and things we've been exploring in this interview?

[redacted]
A. No, sir.

Nemeth
Q. Okay.

Schwab
A. Well, we'll reserve any comments until we have a chance to review the investigative file.

Nemeth
Q. Well, as you sit here now, your best memory, have we, is there anything that you're aware of at this time that's important to this incident that you haven't told us, anything you saw happen that you feel is relevant that we haven't asked about?

[redacted]
A. No, sir.

Nemeth
Q. Okay, alright, that concludes the interview. Now, I do have one thing to put on the record, that is, I'm in receipt of a letter dated December 11, 1995, from Miss Schwab, and it's--

Schwab
A. Okay, why are you putting this on the record, sir?

Nemeth
Q. Well, because it pertains to this case.

Schwab
A. That's right.

Nemeth
Q. It's Deputy Broad, Deputy Barrett, Deputy Kammer, there's a letter which states that you're asking in reviewing your file, you realize it's been approximately 30 days since the deputies interview--

Schwab
A. Okay--

Nemeth
Q. --occurred.

Schwab
A. --Sergeant, this is not part of this investigation, or this...

Nemeth
Q. Well, absolutely.

Schwab
A. This is not part of this interview, we are done with Deputy [redacted]--

Nemeth
Q. Okay.

Schwab
A. --are we not, okay, we can discuss this, I'm gonna release Deputy [redacted], and we'll come back and discuss this. If you want to put it on the record--

Nemeth
Q. Okay, that's fine--

Schwab
A. --we'll be glad to--

Nemeth
Q. Alright.

Schwab
A. --but it's not part of Deputy [redacted] interview.

Nemeth
Q. Sure, we'll conclude this interview with Deputy [redacted], time is 1517 hours. Okay, we're back on the record, this is--

Schwab
A. We're not back on the record, this is not part of the interview.

Nemeth
Q. This is not part of the interview, this is back on the record in this case, 8383. I have received this letter from you, dated December 11, and what the letter states is that you reviewed the file and determined it's been exactly 30 days, or approximately 30 days since the deputies referenced Broad, Barrett, and Kammer have been interviewed, regarding allegation of use of force, and you wanted an update. This case, involving Broad, Barrett, and Kammer, is part of the case we just completed an interview on, so the interviews are still ongoing. Tomorrow is the last interview scheduled.

Schwab
A. Alright, are you waiting to do anything on Broad, Barrett, and Kammer until the entire interviews are completed?

Nemeth
Q. Exactly, that's correct, it's all part of the same case, and therefore, nothing can be done on Broad, Barrett and Kammer until the entire case is completed.

Schwab
A. Okay, well unless Broad, Barrett, and Kammer speak to the other deputies that are being interviewed, they don't know that, and that's why we send out the update letter.

Nemeth
Q. That's fine. I just wanted to let you know, though, that it's part of the same case that you might have been under, it sounds like possibly you were under the mistaken impression that they would be handled separately.

Schwab
A. It's possible that they would be.

Nemeth
Q. Okay, they're not. That's all we're discussing right now. So, we conclude the interview, tomorrow the case will be prepared and as I stated earlier off tape to, to Deputy [redacted], estimated time of about six weeks before the case is presented to the comm, Commanders' Force Review Committee, so that's where we're at, just so he knows, because that will probably exceed the 30 day time even after our last interview tomorrow.

Schwab
A. There's no time limit, we just sent that update requests every 30 days--

Nemeth
Q. Okay.

Schwab
A. --and we're just requesting an update on behalf of the deputy since they can't talk to each other in this case.

Nemeth
Q. No problem, all right, that concludes that statement on the record, the time is 1525 hours.

END OF INTERVIEW

s

ADMINISTRATIVE RIGHTS/SWORN SUBJECTS

I am **Sergeant John Nemeth** and this is **Sergeant Ernie Gjendem** of the Internal Affairs Bureau, which is commanded by Captain Norman L. Smith.

You are about to be questioned as part of an official Los Angeles County Sheriff's Department administrative investigation.

Do you have a Policy and Ethics Chapter of the Manual of Policy and Procedures? Yes [X] No [ ]
Are you familiar with its contents? Yes [X] No [ ]

You are specifically reminded that Policy and Ethics Section 3-01/040.70 requires that you make truthful statements and Section 3-01/040.75 requires that you make full and complete statements.

This investigation concerns: (Explain allegations /basic reason for investigation.) **Alleged Use of Unreasonable Force; and Reporting the Use of Force**

If this were a criminal investigation any statements you made could be used against you in a court of law. Since this is an administrative investigation, neither your statements nor any information or evidence which is gained by such statements can be used against you in any subsequent criminal proceeding. However, these statements may be used against you in subsequent administrative actions.

You are being ordered to answer questions specifically related to the performance of your official duties and/or your conduct as related to your employment with the Department.

You have the right to remain silent, and you have the right to the presence and assistance of counsel. You are hereby notified that although you have the right to remain silent, failure to answer questions directly related to this administrative investigation may result in your discharge or other punitive action.

You have the right to have a representative of your choice, who is not involved in this investigation, present with you during your interviews. You may tape record this interview if you wish. **You are being ordered not to discuss the facts of this case or any of the issues discussed during your interview with anyone other than your designated representative or attorney in this matter.**

Initials [redacted]

The above admonition has been explained to me and I understand its contents.

DATE: 12-13-95 FILE NO. IAB 008383

SUBJECT: [redacted] (Print) [redacted], [redacted]

INVESTIGATOR: (Signature) John Nemeth (Print) John Nemeth

DEP. GARY SLOAN
I.A.B. INTERVIEW 12-8-95

SUBJECT INTERVIEW

CASE NUMBER IAB 008383

GARY SLOAN

Nemeth
Q. Today's date is December 8th, Friday, 1995. The time is 1020 hours. I'm Sergeant John Nemeth accompanied by my partner, Sergeant Ernie Gjendem. We're here today at the Internal Affairs Interview Room interviewing subject Deputy Gary Sloan. This is regarding IAB Case Number 008383. Deputy Sloan, prior to going on tape, I provided you a copy of your Administrative Rights as a Sworn Subject in this case, which I see you indicated "yes" to the questions, signed you initials, and signed you name to the form. Do you understand your rights as a sworn subject in this case?

Sloan
A. Yes, I do.

Nemeth
Q. Okay. And you've chosen to have a representative, correct?

Sloan
A. Yes.

Nemeth
Q. And that's Miss Schwab seated next to you?

Sloan
A. That's correct.

Nemeth
Q. Okay. Miss Schwab, for purposes of identifying who's present in the room and getting a voice identification, could you spell your last name for the record, please.

Schwab
A. S-C-H-W-A-B.

Nemeth
Q. Okay. And also present is another attorney, a Mr. Mitchell Kander. Mr. Kander, would you state and spell your last name for voice identification on the record, please.

Kander
A. Yes, my name is Mitchell Kander, K-A-N-D-E-R.

Nemeth

Q. Okay, thank you. And it's my understanding that you're present today to observe the proceedings. Is that correct?

Kander
A. That is correct.

Nemeth
Q. Okay. Alright, Deputy Sloan, a couple of basic ground rules here. I will ask you questions. If you don't understand the question, ask me and I will be glad to re-phrase in in such manner that you can understand it, okay?

Sloan
A. Okay.

Nemeth
Q. What I'll ask you to do too is try not to answer a question while I'm still speaking because what happens then is it makes for a poor record on the tape and it makes it difficult to transcribe when we're talking over each other. And I'll extend the same courtesy to you. When you're answering, I won't begin to ask another question, okay?

Sloan
A. Okay.

Nemeth
Q. Do you need to go to the bathroom or anything like that for now?

Sloan
A. No, uh-uh. I took care of all that.

Nemeth
Q. Okay. Ready to go, right?

Sloan
A. I believe so.

Nemeth
Q. All right. Now you were assigned to Men's Central Jail, or you are assigned to Men's Central Jail, correct?

Sloan
A. That's correct?

Nemeth
Q. Okay. Were you on duty back on October 27th, 1994, at Men's Central Jail?

Sloan
A. Yes, I was.

Nemeth
Q. Okay. What shift were you working?

Sloan
A. Early mornings.

Nemeth
Q. Okay. What was your assignment?

Sloan
A. My assignment at that time if I am correct, I had not been switched over to watch deputy which was going to be my current assignment. I may have been assigned to kitchen prowl which is basically taking care of the inmate's meals and running the ODR which is a restaurant for MCJ.

Nemeth
Q. Okay. And just a--just as--to refresh your recollection, we have the copy of the early morning in service that night and that's exactly what your assignment was, kitchen prowl.

Sloan
A. Okay, good. At the time, I was training to be watch deputy and although there is no set position on the in service at Central Jail for training in the admin spot up there, if you will--

Nemeth
Q. Okay.

Sloan
A. --I had nothing to do with the kitchen prowl at that time. My main focus was working watch deputy and training as watch deputy. At that time, I believe that I was just about done with training and going for my full assignment as watch deputy and then first floor prowler up there. That night I had been working watch deputy.

Nemeth
Q. Okay. This shows on--the in service for early morning shift, October 27th, 1994, shows you working 1000 prowl number 2 spot. Actually somebody else's name was in there, Osborne. That name was lined out. Your name was inserted.

Sloan
A. Is my name also under Kitchen prowl and then lined out?

Nemeth
Q. Yes.

Sloan
A. Okay. What it is--what that is is--

Nemeth
Q. Well no, actually it's 1700 prowler lined out.

Sloan
A. Okay, what it was is a rip spot, the kitchen prowl is a--what we call a rip spot and that's the captain does not want to assign overtime at the time, so what we do is we rip from spots that we feel that we can handle. Instead of three prowlers, there's going to two prowlers down there, take them and put them in different spots at the time. Working the prowler position for the first floor also meant that I was working watch deputy because, I believe, that was a weekend night if--'cause Saturday, or Saturday night and Sunday night I was watch deputy. And then after doing all that, then I would go down and help out 1000 Floor if possible.

Nemeth
Q. Uh-huh.

Sloan
A. Whatever they needed. If they needed to pull another line from IRC, then I would help them out.

Nemeth
Q. Okay. Just for the record, we have a question of recollection. This was early morning Thursday, which would mean Wednesday night was when you showed up for work and went into Thursday morning, Thursday the 27th, 1994, in October, okay?

Sloan
A. I specifically remember working watch deputy that night also. Could have been while training with the original or what could have happened was the original watch deputy did not come in that night and, therefore, they said, "Alright, Sloan, we need you to go ahead and get the in service and go up and do what you normally do as watch deputy."

Nemeth
Q. Okay. Alright, at some point on that night, did something cause you to go Module 4400?

Sloan
A. Yeah, it was about 12:30 at night and Deputy Kluth was assigned to 4400. I went up there to see if he wanted some chow, which was normal time for my eating time and I didn't know what time he was going to get relieved over there. Went up there to basically talk to him, see what time he was going to get relieved. If he could get relieved right then, great. If not, then I was just going to go eat chow and go to ODR by myself.

Nemeth
Q. Okay. So, if I understand you correctly, you didn't go up to relieve him. You went up to see if he could accompany you to--

Sloan
A. Yeah, to chow.

Nemeth
Q. --to his lunch break. Okay. And that's something you did on your own. He didn't phone you and say come up or anything like that?

Sloan
A. No. No, sir.

Nemeth
Q. All right. So you're there then in 4400, did--and did you talk to Deputy Kluth?

Sloan
A. Uh-huh. Yeah, I got up there and walked into the module and asked him, you know, "Are you going--are you able to go to chow right now." He says, "Well I don't know. I haven't--nobody's called down to see if they're going to relieve me." And I said, "Okay, great." And we sat and just chatted about what we, not too much of anything. He said, "You know what, I've been waiting for a prowler up here. Do you mind sitting in the booth while I go talk to this guy." For some reason he has tried several times to try and lock him down, and he's not locking down. And he says, "And I haven't been able to see him because he's hiding now behind this," there's a cement area in 4400 that while you're looking down the glass, there's only so far that you can hit the glass to look down. He no longer was capable of seeing him any more. And what he was doing is the inmate evidently was backing himself up to the cement, for whatever reason and he wanted to find out what was--what was going on with him. So I--at that time I said, "Yeah, no, you know, no problem. Go ahead and talk." At that exact same time, the phone had rang and he was kind of gesturing towards the phone, I said, "No, go ahead and--go ahead and talk to the guy. I'll get the phone." Answered the phone and it was [redacted] who had been working over--overtime that night, I believe. I don't know if it was trade or overtime. He had called down and said, "Hey, Sloan," he says, "This is [redacted], do you want--ask Kluth when he wants to go to chow." And I said, "Okay, well right now I'm coming up here to see if he wanted to go chow too, so let me see when he wants to go." If you know the phones in 4400, I'm not going to say that they are all the way--halfway down the module, but they are off to a distance and when I had answered the phone, it was just basically answer the phone like this, and kind of kneel down on my elbow. As I turned, the door which has glass on it and then the bars going across, I saw inmate, or suspect [redacted] had

Deputy Kluth around the neck, was hitting him with a closed fist in the face area, and their momentum was going across the--the glass area. I immediately told [redacted], "I've got a 415, I've got deputies involved down here, and I need some back-up quickly."

Nemeth
Q. Uh-huh.

Sloan
A. As far as I was--as far as I was concerned, this was--was not a--if you want to call normal or for lack of a better term a routine, he was--he was getting beat up badly and, especially with the choke hold, it looked like he was completely incapacitated, was not able to move at the time, and their momentum was crossing against the glass. I stayed on the phone waiting for somebody else to come back because I don't know--really know where he was calling from at that time. I didn't know if he was calling from the 5000 Booth, he was calling from a dorm because working 5000, his job is mainly just to relieve everybody on there, sort of deal.

Nemeth
Q. Let me just stop there. When you say "he," you're talking about [redacted] on the phone?

Sloan
A. That's correct.

Nemeth
Q. Okay.

Sloan
A. That's correct. Stayed on the phone hoping that booth operator or somebody, wherever he was, would come back on the phone and ask for additional information, which is a standard that is done at Central Jail. The person putting out the call stays on the phone, let's them know what is--what's going, how many deputies are involved, how many inmates are involved, that sort of thing.

Nemeth
Q. Uh-huh.

Sloan
A. Nobody every came back. Waited for the call out to come onto the PA system, which is the all-hear that you can hear in Central Jail. Nothing ever came out onto the all-hear. And there was no radio in there, so I didn't know if it had been put out on the radio or what not. Had sat there for what seemed like a lifetime basically. At this time, I've got the phone and I'm trying to check out where Deputy Kluth is at--at this time. He is now--he is now out of my sight because of the bars they have going across the glass and the little concrete area they have there, which is--you

have the door here, you have this. This kind of gives you a little blocking as to what's going on in the sally port area if it's off to the corner. Anything in front of you, you can obviously see, see out the door window. He was not out of my sight. I looked over again and in the corner, he was--they were both standing still, but the inmate still had him around the--around the neck and was still hitting him and it wasn't--it wasn't a--it was more like a constant trying to get a shot at--at Deputy Kluth's head. And what it looked like to me is right then that he had pretty much lost. It looked like he was--

Nemeth
Q. "He" being Kluth?

Sloan
A. Yes. I'm sorry. This is Deputy Kluth. Looked like he was kind of going out, wasn't really doing anything as far as swinging or anything like that, just kind of--just kind of lawless standing there. And I knew there was--I knew he was definitely in trouble at this point. Nothing had still gone out onto the all-clear. Not--nobody ever came back onto the phone, so I ran up to the door. And at that time, 4400, I don't know if it has been fixed yet, has got a door that it sticks. The door does not close. It will close if you close it hard, give it kind of a--a push on it. It will finally click. You just let the door close, it sits and it sticks, okay. I went up to the door, pulled on the door. I'm sorry, let me back up. Hoping that [redacted] was gonna be coming down, I did hit the one gate for the gate to open. Running up the door, I opened the door, because at this point I was going to go help him, and I--that's really all I could go through at the time because I was scared, and I was scared for him. At that time, [redacted] and [redacted] entered the module. I showed them, you know, with, you know, kind of a gesture, "He's right here, he's right here." When they were--when they did come around the corner, that is when I saw both of them going to the ground and it was--

Schwab
Q. You're talking about Kluth again.

Sloan
A. Kluth and--

Schwab
Q. The inmate.

Sloan
A. Yes, yes, the suspect [redacted]. That is when they both went to the ground. Right then I--I knew somebody was in trouble and what I was going to do is close the door, let it kind a--let it sit and, without locking--

Nemeth
Q. Uh-huh.

Sloan
A. --just going to close it very slowly, let it sit, and then go assist however I could. As I was doing this, Deputy Romero was coming in. He came in, I threw open the door, I said, "Take the booth, take the booth," and went down there. And at this point, this is where suspect [redacted] still had Deputy Kluth. They were now on the ground. Suspect [redacted] still did have Deputy Kluth around the neck. I went over there--there was--got a lot of commotion going on at this point. He's being ordered. Several, several orders to put his hands behind his back, to let go of the deputy. Only thing that I could really do was try and put a pressure point underneath his chin. And the reason being is because he had--Deputy [redacted] was trying to get his arm, which he was unsuccessful at the time, because of the strength of this guy, trying to get his arm out and which his arm at this point, his right arm, was underneath his body. He's tried to pull out his arm and really the only thing that I could do was try and get a pressure point underneath his chin, which had worked for me in the past. He had absolutely no response to this whatsoever. And the way he was is his head was kind of down inward and his body was, at that time, trying to thrust upwards, kind of like he was trying to get away. Did that for several seconds. Tried to find maybe--maybe I was at the wrong spot. Maybe he--something was not, you know, something I was doing wrong. It--he had--absolutely affect on him with this whatsoever. At that point, his arm came out as to kind of a hitting motion or swinging upwards at us.

Schwab
Q. Right arm?

Sloan
A. This is his right arm, yes. This is his right arm.

Nemeth
Q. Okay.

Sloan
A. He's hitting upwards with it trying to kind of use it to bring his torso up, kind of trying to get it away 'cause Deputy [redacted] is still trying to get--gain control of his arm at that time. I was able to grab a hold of his arm, put it in a sort of a wrist lock, and then bring it in back of him. Deputy [redacted] then helped--we both did it at--the time that I was able to get the wrist lock is what--when his arm was fully extended out, then Deputy [redacted] was able to help me out and bring it to his back. I remember handcuffing. I did not myself--I did not have a pair of handcuffs on me, so I can't really tell you who's handcuffs it were. I do remember handcuffing. I remember [redacted] was on the other side

holding his left arm. They had gained control of his left arm and put it back there. I then did help him handcuff. After we had handcuffed him, it seemed like there was, if I remember correctly, a pause, sort of a, "Okay, it's done, okay, okay, we have him." At that point, he then started to thrash with his legs trying, kind to maybe get up or starting to kick and what I did is grabbed the ankles of him 'cause I now near his back area, straddled his body, and pulled back on his legs, so I could gain control of those. It was at--at that same time, [redacted] was holding on sort of--kind of his thigh area. And yet--now at this time, he is still on his stomach. Pulling back on his ankles, I was able to gain control of them, used Deputy Kluth's rip hobble that he had on him at that time. Put them around his legs, and then we were able to hook him up.

That was--that was about it at that time as far as any force that was being used. He would--even--even after being hooked up, he still--thrashing around a bit. I remember distinctly once it was--once it was done, it was--going over to Deputy Kluth making sure he was all right. It was--I--the hit that he had taken onto the ground and from what I had saw as far as the force that was being used on him, I pretty much figured that he was going to have problems. Holding his throat, trying to--trying to catch his breath as if he was hurt there and that was--that was about it. And the inmate himself kept screaming and yelling over and over that, you know, thanking Deputy Kluth basically for saving him. And that's all he kept saying was, "Thank you. Thank you very much." You know, the guys in the cell, they're a bunch of Bloods. They thought it was a Crip. So, they'd been and to use his wordage, "They were kickin' my ass in the cell. Thank you for taking me out of the cell. Thank you for helping me." And--and I--I knew right then that we were having--we having a problem. That--that's--that's about it.

Nemeth
Q. Okay. Alright, what I'd like to do now is kind of go back through that and get some clarification points because there were some things that we need to, you know, clarify, espe-, particularly when you were discussing that module and, you know, and that type of thing. When you get to the module and Kluth says, "I want to talk to an inmate. Can you relieve me in the module while I talk to the inmate who was hiding from him." Is that correct?

Sloan
A. That's correct.

Nemeth
Q. Okay. You said as that was happening, as Kluth was about to walk out the door, the phone inside the officer's control area is ringing. Is that right?

Sloan
A. Uh-huh.

Nemeth
Q. Okay. Try to say "yes" or "no" as much as possible because--

Sloan
A. I'm sorry. Yes.

Nemeth
Q. --uh-huh and uh-uh sound--

Sloan
A. Sorry.

Nemeth
Q. --the same. Yeah. Okay, so the phone was ringing and then you told Kluth, "Go ahead on out and deal with the inmate, I'll get the phone." Is that right?

Sloan
A. Yes.

Nemeth
Q. Okay. And you--you describe some kind of body position you had when you were on the phone. You said that if I know where the phone in the module and that type of thing.

Sloan
A. Uh-huh.

Nemeth
Q. Okay.

Sloan
A. Yes. I'm sorry.

Nemeth
Q. Okay. Let me--let me have you look at this. This is a--a sketch of Module 4400, a schematic, if you will. It's not to scale, but I'm going to ask you does that appear to be an accurate representation as you understand Module 4400? This would be the--what would be the top, actually the bottom of the paper, you know, where it says, "Module 4400." This would be the 4000 hallway. This would be the one gate here, the entry. There's a pay phone located here. Some type of a laundry room here, sally port area, mop closet, B and D row showers would be on the right as you're standing, facing the officer's control booth, and A and C rows on the left. Does this appear to be an accurate picture--

Sloan
A. Yes, it does.

Nemeth
Q. Okay. And then this center component here would be the deputy's security booth area for that particular module, the 4400 Module deputy booth that runs the length of the--the module. Does that appear to be accurate?

Sloan
A. That's accurate.

Nemeth
Q. Okay, where is the phone in this picture? Where would the phone be?

Sloan
A. I would say right--right here because you two--you have--yeah, we kind of call them--

Nemeth
Q. Okay.

Sloan
A. Where you kind of have Christmas trees here. So, you've got the phone here and right here where your electrical outlets are--electrical knobs are that let--

Nemeth
Q. To control the gates on the cells--

Sloan
A. To control the gates, right.

Nemeth
Q. So the telephone is right here. Is that where you're trying to write?

Sloan
A. Yeah, I would say right there.

Nemeth
Q. Okay. And Kluth's going out this door, right?

Sloan
A. That's correct.

Nemeth
Q. To deal with the inmate. Now where was the inmate that he was dealing with?

Sloan
A. The inmate at the time was still on freeway.

Nemeth
Q. Of which row?

Sloan
A. Of--bottoms being the Baker row.

Nemeth
Q. Okay, this side right here? Baker row side?

Sloan
A. That's correct.

Nemeth
Q. Okay. So, you answered the phone. Now you described something about being on your elbow or something like--what--what was that?

Sloan
A. That's correct. Walking over here, I grabbed the phone and said, "4400, Sloan," in just kind of a--kind of a lackadaisical sitting and talking to him this way.

Nemeth
Q. Okay.

Schwab
A. There's a desk there and your--

Sloan
A. There--that's correct. There's a desk there.

Schwab
A. And your elbow's on the desk--

Sloan
A. Right.

Nemeth
Q. So the desk--or is it more of like a counter, approximately waist high?

Sloan
A. I'd say a counter.

Nemeth
Q. Okay. And when you were on the phone, which direction were you facing?

Sloan
A.   Kind of--my back would be to this right here--

Nemeth
Q.   Uh-huh.

Sloan
A.   --leaning on my left elbow and just kinda looking out at the inmates and -- and --

Nemeth
Q.   -- Okay. --

Sloan
A.   -- the freeway over here.

Nemeth
Q.   Would you point an arrow from the phone in the direction in which way you were looking --

Sloan
A.   -- Sure. --

Nemeth
Q.   It was that way?

Sloan
A.   Yeah.

Nemeth
Q.   Okay. Alright. So, your back's not totally facing what would be probably something like your left side or your left shoulder maybe would be closest toward --

Sloan
A.   -- I -- I -- I -- No, I wouldn't say that. I would -- I would say being this big the counter right here the door being there answered the phone and did one of these. So, I -- I would call it -- I would still call it more of my back --

Nemeth
Q.   -- Uh-huh. --

Sloan
A.   -- because it was just kind of a -- just kind of a leaning on to my left -- left arm.

Nemeth
Q.   Okay. Alright. So, did you ever look over your left shoulder? You did at some point, right?

Sloan
A. I did. At one point, yes.

Nemeth
Q. Okay. How long were you on the phone not paying attention behind -- is that a fair statement that you weren't looking behind your back?

Sloan
A. That's correct. --

Nemeth
Q. -- 'Cuz you were on the phone?

Sloan
A. That's correct.

Nemeth
Q. Okay. You were looking over this direction here towards what would be the A/C Row day room area?

Sloan
A. I wouldn't say that I was looking over there but I would say that my body would be facing towards there, yeah.

Nemeth
Q. Okay. Were you looking at Deputy Kluth what he was doing with the inmate?

Sloan
A. No.

Nemeth
Q. Did you see Deputy Kluth ask the inmate to exit the row or anything of that nature?

Sloan
A. Was not exiting the row the only thing that I had heard as far as a command so he could talk to him was something to the effect, "Hey, partner, can you come here for a second?" Which is then when the door closed and I was going over to answer the phone.

Nemeth
Q. And Kluth was the addressing the inmate as, "partner." Is that what you mean?

Sloan
A. That's correct.

Nemeth
Q. Not you?

Sloan
A. No.

Nemeth
Q. Okay. And this door then closed -- this module officer's security door closed behind Kluth when he left?

Sloan
A. Yes.

Nemeth
Q. Is that right?

Sloan
A. Yes, sir.

Nemeth
Q. Okay. And so it's just at this point the only deputies in the module are yourself and Kluth. Is that correct?

Sloan
A. Not in the module, no. I'm the only deputy inside the module. He is outside in the sally port area.

Nemeth
Q. Okay. Meaning -- by module I'm meaning this whole area --

Sloan
A. -- the whole 4400? That's correct.

Nemeth
Q. Okay. So, there's two deputies in 4400 you and Kluth. Right?
Sloan
A. Yes.

Nemeth
Q. You were in the security area -- the officer's security area for Module 4400. Correct?

Sloan
A. Yes.

Nemeth
Q. And Kluth stepped out into the sally port area?

Sloan
A. Yes.

Nemeth

Q. Okay. Was -- do you know what the status of this one gate door this main door to the module -- was it open, closed or not locked or locked?

Sloan
A. I don't want to guess, but I -- I remember hitting the one gate. Now, hitting the one gate could've very much been a normal reaction to make sure that it was open. So, any responding deputies coming down would be able to get in.

Nemeth
Q. Okay. I think you're getting a little ahead of me. I mean, at the point in time when Kluth first steps out with this -- to deal with this inmate on Baker Row.

Sloan
A. I can't give you an accurate answer on that.

Nemeth
Q. Okay. When you came in did you close the door behind you?

Sloan
A. If I remember correctly, I did close it, yes.

Nemeth
Q. And lock it?

Sloan
A. Yes.

Nemeth
Q. Okay, thanks. Alright. So, you're in here on the phone. About how long do you suspect you were on the phone talking to Deputy [redacted] on 5000 before you turned around and first noticed Kluth involved in some kind of altercation?

Sloan
A. 6 to 10 -- right around maybe 10 seconds. As long as it would take to say, "Hey, you know, Slonee how's it going?" and there wasn't really any chit chat. It was, "Hey, do me a favor. See what time Kluth wants too be relieved to go to chow. So, I know when I can go to chow."

Nemeth
Q. Okay. And that's when you turned around, then?

Sloan
A. That's when I turned around to yell and say, "Hey what time -- do you want to go eat now or, you know, what do you want to do?"

Nemeth

Q. You were gonna yell even though this door was closed at this point?

Sloan
A. The sally port area here -- the door here has a mail slot in it. Okay?

Nemeth
Q. Okay.

Sloan
A. Very easy for -- if you were to yell out at somebody. Very east to hear.

Nemeth
Q. Okay. You suspected he'd hear you because there's a hole cut in that door and that's correct. So, that 6 to 10 seconds of -- of of not watching Kluth, you turn around and then at what -- where -- where do you see Kluth and the inmate? Go ahead and indicate on here. Put a 1 in it.

Sloan
A. As far as seeing which person?

Nemeth
Q. Well, you could just put a "K," for Kluth and a -- and a "[redacted]," for [redacted], the inmate's name, and draw little circles and show where they were and then we'll put like a 1 next to it to show me that's where you first saw them.

Sloan
A. Okay. I would say that a -- with their momentum going this way, you'd have to have here a --

Nemeth
Q. Put it--

Sloan
A. --"K" --

Nemeth
Q. That's "K."

Sloan
A. And, figure right here would be your "[redacted]."

Nemeth
Q. Okay. So, when [redacted] was actually the person closest to the booth and Kluth was on the other side of [redacted] closest to the front door of the module. Is that right?

Sloan
A. Well, --

Nemeth
Q. From what your indicating here?

Sloan
A. Yes. I would -- I would and the reason I would say that is because it seemed to me that I was not really looking at the suspects back but what I was looking at is something to this effect with him here, okay. So, yes, his body would be closest to the window with Deputy Kluth kind of on an angle here with him in the choke hold.

Nemeth
Q. Okay. Now, put a one right here, will you, so this --

Sloan
A. Sure.

Nemeth
Q. -- is where you first see them, okay. And which way is [redacted] facing, is his face pointing that way, that way, that way?

Sloan
A. I would say this way. Towards the one gate.

Nemeth
Q. Okay. So, in other words [redacted] back is towards you, is that correct?

Sloan
A. That's correct.

Nemeth
Q. Okay. Which way is Kluth facing?

Sloan
A. Kluth he has, it's -- like I said, he'd, it's, you know, I wouldn't say that his back -- I was looking at his back. I would say that he was closest to the module door.

Nemeth
Q. Uh-huh.

Sloan
A. Okay. And what I mean being, like I said, he had him in the headlock, like this, and the angle would be Kluth's body next to him here with the inmate's body holding him here.

Nemeth
Q. Okay. You indicated for the tape with your left arm. Is that what you remembers [redacted] doing, so that would be this side of him?

Sloan
A. That's correct. That's what I remember.

Nemeth
Q. All right. And now go ahead and take it from there. So now you see this, what do you do on the phone at this point?

Sloan
A. At this point, I immediately tell Deputy [redacted] that I have a 415, deputies involved, I need some back up down here immediately.

Nemeth
Q. Okay. And what does he say?

Sloan
A. That, "I never heard anything."

Nemeth
Q. He didn't say a word. He didn't acknowledge it or anything?

Sloan
A. I would say -- well, I can't -- I'm sorry I can't guess to what he did at the time.

Schwab
Q. Did you have a sense that he was still on the phone when you made that announcement or told him (inaudible)?

Sloan
A. When I told him that there was 415, yes, he was still on the phone.

Nemeth
Q. Okay.

Sloan
A. Okay. What he did immediately after that, I don't know.

Nemeth
Q. Okay. Not asking what he did just what he said to you. Did he say anything?

Sloan
A. No.

Nemeth
Q. Nothing?

Sloan
A. No.

Nemeth
Q. Okay. Do you know where [redacted] was working that night?

Sloan
A. From, because of him calling and saying that he was his relief, I gathered that he was working 5000 some sort of a prow spot on 5000 --

Nemeth
Q. Okay.

Sloan
A. 5000 prowl are the people who relieve both 4000 and 5000 as far as the chow break.

Nemeth
Q. Okay. Did you know where he was calling you from? Where [redacted] was telephoning you from in the jail?

Sloan
A. No, I did not.

Nemeth
Q. Okay. So, in other words, [redacted] didn't tell you Okay, I'll send deputies or I'll call main control or anything of that nature?

Sloan
A. No, he did not.

Nemeth
Q. Okay. So, how long did you stay on the phone?

Sloan
A. I stayed on the phone approximately --

Nemeth
Q. After that point?

Sloan
A. Okay.

Nemeth
Q. When they were --

Sloan
A. After this point right here?

Nemeth
Q. After you notified [redacted], "Hey! There's a 415 deputies involved. I need back up down here." He doesn't respond. How long did you stay on the phone from that point?

Sloan
A. I take one more look over to see if I can see Deputy Kluth, I'm now able to see him, which is the second time that I'd saw him in the headlock taking the shots from the inmate. Got back on the phone and said, "Hey, is there anybody there. Is there anybody there?"

Nemeth
Q. So, you left the phone off the receiver, is that what your saying?

Sloan
A. Yes. Kind of put it -- I -- probably still in my hand. Okay. It's got a cord on it with, you know, where you can kind of walk around the module if your having to do things. I'm -- would have to say I probably still had it in my hand.

Nemeth
Q. Okay. But there's no conversation going on, is that right?

Sloan
A. No, there's not.

Nemeth
Q. Okay. And you had it in your hand so you could go over and see -- take a better position where you can see better, is that right?

Sloan
A. That's correct.

Nemeth
Q. Okay. How --

Schwab
Q. You have it -- you said initially you had in your hand because your waiting to see if some one gets back on the phone, I mean in other words, that's the purpose of staying with the phone, is that --

Sloan
A. That's the whole purpose --

Nemeth
Q. Right.

Sloan
A. -- is to let them know exactly what's going on with the altercation.

Nemeth
Q. Right. But I guess what you are saying is up until this point no body has asked you well, how many inmates or any details or anything?

Sloan
A. Correct.

Nemeth
Q. Okay. So, did anybody ever get back on the phone with you or?

Sloan
A. No they did not.

Nemeth
Q. So you were -- you just ultimately hung up the line?

Sloan
A. Hung up the phone, yes.

Nemeth
Q. Okay. And did you notify main control then?

Sloan
A. No, I did not.

Nemeth
Q. Why not?

Sloan
A. It, to tell you the truth, it never occurred to me.

Nemeth
Q. Okay. Did -- all right. I think you already said -- did you have a radio on you that night?

Sloan
A. No, I did not.

Nemeth
Q. Okay. Didn't have radio. And did you call the 4000 control booth and let them know what was going on the module?

Sloan
A. No I didn't.

Nemeth
Q. Okay. At some point you said you pushed the -- activated the 1 gate button which because of the way the air flows in the jail, sometimes pop the gate open or this main door here --

Sloan
A. Yeah. They have --

Nemeth
Q. So that it's --

Sloan
A. Yes. That's correct.

Nemeth
Q. Let her change the tape here. Okay. What we are saying is that you told me --

Sloan
A. (Inaudible)

Nemeth
Q. Yeah, to pop the -- you indicated that you'd released the electric lock on the number 1 door, the main door to the module so that it would unlock so that other people could come in, is that what you said earlier?

Sloan
A. That's correct. Yes.

Nemeth
Q. Okay. Is that the point you did it, where we are at right now?

Sloan
A. Yes. Because I specifically remember hitting the thing two or three times like this --

Nemeth
Q. Okay.

Sloan
A. -- making sure that --

Nemeth
Q. All right.

Sloan
A. -- if it wasn't open and like I stated before, I can't remember if the door was already open or not. But I was going to make sure. So I did pop it two or three times.

Nemeth
Q. Okay. Clicking it?

Sloan
A. That's correct.

Nemeth
Q. Make a clicking sound?

Sloan
A. That's correct.

Nemeth
Q. That also maybe draws attention to the module, correct?

Sloan
A. Depends where you are at, as far as -- I'm sorry what do you mean drawing attention as far as?

Nemeth
Q. From the 4000 hallway can you hear the clicking sound?

Sloan
A. Yes, you can.

Nemeth
Q. Okay. All right. How long is it from the time you hang up the phone and the time the first person gets there? If you can estimate. You said, I think you said it seemed like an eternity or lifetime of something like that?

Sloan
A. It seemed like a lifetime, sir. Yes.

Schwab
Q. Did you actually hang up the phone before --

Nemeth
Q. Okay. Just prior to ending the other side of the tape, Ms. Schwab brought up the point that where -- do you know if you had hung up the phone before the first person got there?

Sloan
A. No, I don't. I don't know if the phone was still there --

Nemeth
Q. You don't know one way or the other?

Sloan
A. I don't know if I hung up the phone. If a -- I just can't remember.

Nemeth
Q. Okay. But you weren't talking to anybody on the phone?

Sloan
A. No, I wasn't.

Nemeth
Q. Okay. All right. Can you estimate how much time it was you said it seemed like a long time but in reality and retrospect in thinking about things, can you give an accurate or your best estimate as to what amount of seconds or minutes passed while you were waiting for somebody to respond?

Sloan
A. Are you speaking as to -- after hanging up the phone or while standing there?

Nemeth
Q. Soon as you said, --

Sloan
A. Soon as I put it out? Realistically, I'd have to say fifteen seconds. Right around there. Ten maybe -- well, I'd say fifteen seconds.

Nemeth
Q. Okay. Fifteen seconds from the time you said to [redacted], I need back up, here. Fifteen seconds later somebody arrived?

Sloan
A. That's correct.

Nemeth
Q. Okay. And who was that?

Sloan
A. That was Deputy [redacted] and Deputy [redacted].

Nemeth
Q. Okay. And do you remember who came in first?

Sloan
A. No, I don't sir.

Nemeth
Q. Okay. And at that point, I believe you said earlier that you had moved, whether you still had the phone in your hand or not, you had moved to this point in the 4400 module deputies control booth towards the entry door to that booth, is that correct?

Sloan
A. That's correct.

Nemeth
Q. That's holding it opened?

Sloan
A. That's correct.

Nemeth
Q. And you were holding in such a fashion that you weren't in the booth but you still had the door and you could run back into the booth quickly if you had to, is that right?

Sloan
A. Well, I'm sorry I don't understand your question?

Nemeth
Q. Go ahead then and show me how you were holding this door open and this -- at that point?

Sloan
A. This -- I had not opened this door.

Nemeth
Q. Oh, you hadn't opened it.

Sloan
A. No. This -- I had not opened this door yet.

Nemeth
Q. Okay.

Sloan
A. After I assumed and I can't tell you -- the only thing I can tell you what was going through my mind at that time is I was scared. And I was scared for Deputy Kluth at the time.

Nemeth
Q. Uh-huh.

Sloan
A. I ran up here, gave a tug on the door, the door did open. Okay. At that exact same time is when Deputy [redacted] and Deputy [redacted] came through the door.

Nemeth
Q. Uh-huh. Okay. How did you open this door? This module officers' control door?

Sloan
A. Okay. 4400 at that time, I don't know if logistics has come and fixed it, yet. At that time 4400 did not click, did not click closed unless you -- it wasn't one of those doors as you know, all the other module doors. You open the booth. They close and they close shut. Okay. 4400 at that time did not do that. Once it did close, again, it simulated that it was a closed door, okay. You then had to turn around and give it a push, in order for --

Schwab
Q. (Inaudible) to lock it?

Sloan
A. To actually have the click. Actually have the module itself click on and hold on to the door.

Nemeth
Q. Okay. All right. So, when you get this door but it's close but it's in this position where it's not locked, correct?

Sloan
A. That's correct.

Nemeth
Q. Okay. Where is Kluth and [redacted] at this point?

Sloan
A. This point, they are -- and this would be spot number two, for me.

Nemeth
Q. Okay. Okay. So you've indicated on the on our little sheet here that Kluth is more or less in the little corner that's formed by the Baker/Denver row shower area and near the mop closet. And that [redacted] is on the outside of that position, is that an accurate representation?

Sloan
A. That would be as accurate as I can remember. Yes.

Nemeth
Q. Okay. And was one or the other entangled still in any fashion that somebody -- was somebody holding the other or anything to that nature?

Sloan
A. That's correct. Inmate [redacted] at the time -- sir, I did not mean to --

Schwab
Q. That's okay.

Sloan
A. -- bump into you but I -- inmate [redacted] at that time had Deputy Kluth in a headlock, I remember seeing Deputy Kluth's back, kind of the back of his body and I could see inmate [redacted] striking him. Once again, with his -- with a closed fist at the head region of Deputy Kluth.

Nemeth
Q. Did you see the punches landing or did you see the motion swinging? Is that what you are referring to?

Sloan
A. I would say the motion -- the motion of trying to strike him. I don't and it was in the head region. I can't tell you specifically, if he was landing blows.

Nemeth
Q. Okay.

Sloan
A. Because of the angle that I was at.

Nemeth
Q. But [redacted] was definitely swinging his arm in a punching fashion at Kluth?

Sloan
A. That's correct.

Nemeth
Q. Okay. Do you remember which arm [redacted] was swinging?

Sloan
A. It seems to me that he was still holding him with his left arm, because of the angle I was at, that is what I'd gathered and swinging at him with his right.

Nemeth
Q. He was still holding him in a headlock with his left arm?

Sloan
A. That's correct.

Nemeth
Q. The inmate was hold Kluth?

Sloan
A. That's correct.

Nemeth
Q. Okay. Pretty serious occurrence, right?

Sloan
A. Very serious, sir.

Nemeth
Q. Okay. All right. And so, now the reason you did not leave this security area to help Kluth is because why?

Sloan
A. At what point, sir?

Nemeth
Q. At the point it first started when you very first saw them, why didn't you just run out yourself?

Sloan
A. Because, I was putting out the call, I wanted to make sure that somebody was coming down stairs. I wanted to make sure that this got put out onto the all-hear. All the procedures that we have been taught at that time.

Schwab
Q. Is your -- he's required to be a module deputy, (inaudible)?

Sloan
A. That's correct. That you stay on the phone.

Schwab
Q. You need to state that for the record?

Sloan
A. That's correct. That you stay on the phone, and update them.

Nemeth
Q. Okay. So it was your understanding that this 4400 module deputy booth is to be occupied by a deputy at all times, no matter what the circumstances, is that right?

Sloan
A. As far as in the procedures in the manual, yes sir.

Nemeth
Q. Okay. Okay. And -- so -- [redacted] and [redacted] arrive. You don't remember who got here first, right?

Sloan
A. No sir.

Nemeth
Q. And when they arrived, [redacted] and Kluth are in the position you've indicated as number 2, here. Is that right?

Sloan
A. That's correct.

Nemeth
Q. Okay. And at this point did you open this door?

Sloan
A. The door when they did enter. Yes. The door was open now.

Nemeth
Q. Okay. And you said you motioned to them or directed them to where the incident --

Sloan
A. Where the altercation --

Nemeth
Q. -- was going on?

Sloan
A. That's correct.

Nemeth
Q. And that's because they couldn't see it from the entry door here, is that right?

Sloan
A. That's correct.

Nemeth
Q. Okay. So, what happened next?

Sloan
A. Now, what happened is as they entered I motioned to them that, "They are right here. They are right here." At that time, is when Deputy Kluth and the inmate went down. In my opinion, and my thinking at that time, this was, is gone beyond serious and a deputy taking licks from any inmate or an altercation. In my opinion he was severely hurt.

Nemeth
Q. Kluth?

Sloan
A. Kluth.

Nemeth
Q. Uh-huh.

Sloan
A. That's correct.

Nemeth
Q. Do you know who took the other down or was it a mutual thing or did one person intend it more than the other or if you know at the time?

Sloan
A. As far as I was concerned, the way I saw it, is they just both went down. I did not see anybody --

Nemeth
Q. Okay.

Sloan
A. -- leading, as far as going down.

Nemeth
Q. Right. Well, do you have an opinion as to who was in control of the altercation, if you will. Was it the inmate more or was it Kluth?

Sloan
A. It was suspect [redacted] at the time, who had it. Yes, sir.

Nemeth
Q. Okay. All right. So, go ahead take it from there? Now, at some point you leave the booth, is that correct?

Sloan
A. That's correct.

Nemeth
Q. Okay. Tell me about that?

Sloan
A. Okay. At the point where I'd seen them both go down. Both [redacted] and [redacted] have now turn the corner and running up onto the deal. I was going to keep the door open by just leaving it there and going to helping out. Okay. As I'm doing that, Deputy --

Nemeth
Q. Let me stop you there for a second. You are going to go help out by leaving the door and keeping it there. In other words, letting it close but not lock again, like we've talked about?

Sloan
A. That's correct.

Nemeth
Q. Okay. All right. Go ahead.

Sloan
A. Okay.

Nemeth
Q. Did you do that? Is that what you did at some point?

Sloan
A. That is what I had -- was going to do.

Nemeth
Q. Okay. You were going to do that, but you didn't do that?

Schwab
A. That's correct.

Nemeth
Q. Oh, that -- let me make sure. Let me get the answer from him. You didn't do that?

Sloan
A. No. That is what I had intended to do.

Nemeth
Q. Okay. So what happened next?

Sloan
A. What happened next is Deputy Romero, then was running into the booth, I then kind of swung the door open with my hand and said, "Take the booth."

Nemeth
Q. Okay.

Sloan
A. And then went down there.

Nemeth
Q. All right. Caesar Romero, Deputy Caesar Romero is that who your talking about?

Sloan
A. That's correct sir.

Nemeth
Q. Okay. And who did -- who came along with Romero?

Sloan
A. At that time, nobody was down there.

Nemeth
Q. Romero came by himself?

Sloan
A. That's correct.

Nemeth
Q. Okay. So, you indicated, "Romero come in and relieve me in the booth." Is that what you said?

Sloan
A. Yes. Yes, sir.

Nemeth
Q. And did he do that?

Sloan
A. Yes, sir.

Nemeth
Q. All right. And where did he take up your position on the door here?

Sloan
A. I don't have any idea where he went after that, sir.

Nemeth
Q. Okay.

Schwab
A. What's your belief as to what he did?

Sloan
A. I can't even -- my belief is that, he did -- yes, he did enter the module and that he was out of my sight by then.

Nemeth
Q. Okay. By module you mean the 4400 module deputies' control booth area? This part?

Sloan
A. That's correct.

Nemeth
Q. Okay. So you don't know where he was after that?

Sloan
A. No, sir.

Nemeth
Q. Romero?

Sloan
A. No, sir.

Nemeth
Q. Okay. So at this point it's yourself, Kluth, [redacted] and [redacted] dealing with inmate [redacted]?

Sloan
A. That's correct.

Nemeth
Q. Okay. All right. And Romero was the only other deputy in the module, is that right?

Sloan
A. As far as that -- what I saw. Yes, sir.

Nemeth
Q. Okay. Now, as your dealing with the inmate, you are working on the, I think you said, the upper right area of the inmate?

Sloan
A. What I was doing is when I got there I was unable to really, because of the commotion and where the other deputies were as far as where the inmate was, I wasn't really able to do anything yet. So, I was able to get down, noticing Deputy [redacted] was trying to get his arm out, so the only thing I could do was reach my hand in and try and find a pressure point underneath his chin.

Nemeth
Q. Okay. When you saw [redacted] and Kluth go down, did one go down on top of the other or where they side by side?

Sloan
A. I would have to say that more so that they both, in fact, if I remember correctly, sir. It was because he had Deputy Kluth on his left side. Deputy Kluth went down and it almost seemed like suspect [redacted] also went down at the same time. I don't remember if he landed on him.

Nemeth
Q. If [redacted] landed on Kluth?

Sloan
A. That's correct.

Nemeth
Q. Okay. All right. So, when you run out they are now in prone position both Kluth and [redacted] laying on the floor, is that right?

Sloan
A. That's correct.

Nemeth
Q. Okay. Can you indicate for me, with the number three, show me a -- just draw stick figures how they were laying. Which way their heads were pointing, their feets and that their feet --

Sloan
A. In this area here?

Nemeth
Q. Or where ever it was? If you need another -- we have enough forms, that won't be a problem. We'll give you a clean sheet to start off with. Before we start, let me ask you to sign down here on this one here. Then put a roman numeral I, for this is the first one you filled out.

Sloan
A. Okay.

Nemeth
Q. Now sign here and put a number two on this one. Okay. And now on this one show me, you know, drawing little figures, with a circle representing the head and you know, you know what a stick figure looks like?

Sloan
A. Sure.

Nemeth
Q. Where Kluth was and where [redacted] were, was?

Sloan
A. Okay.

Nemeth
Q. Okay. We'll just put a little arrow on these so I'll know that's (inaudible).

Sloan
A. If I can verify one thing about this, sir?

Nemeth
Q. Go ahead.

Sloan
A. Inmate [redacted] is at this point is almost on his stomach with Deputy Kluth still in a choke hold.

Nemeth
Q. Okay.

Sloan
A. They are not facing upwards.

Nemeth
Q. All right. Good. This person here, you put a "[redacted]" by and just so let's not confuse this with three put a line under it. Okay. And then this is position number three, that you seen them in, is that right?

Sloan
A. That's correct.

Nemeth
Q. Okay. (Inaudible) And what you've drawn for the trying to paint a picture for the tape here, you've indicated a stick figure of [redacted] with his head close to what would be the Baker/Denver row shower bars. Is that right?

Sloan
A. That's correct.

Nemeth
Q. Can you estimate the distance from the bars to his head, roughly?

Sloan
A. No I can't. But I can get -- if not right up close or touching, very very close. But I couldn't give you --

Nemeth
Q. Okay.

Sloan
A. -- inches or feet, but it was right up against it.

Nemeth
Q. Right up against. So that's less than a foot, obviously. Right?

Sloan
A. Yes.

Nemeth
Q. Probably some matter of inches, right?

Sloan
A. Yes, sir.

Nemeth
Q. Okay. And that's [redacted] here and he's laying face down. Okay. Which would mean this is left side here, and he's got Kluth's head, and you drew a stick figure of Kluth with the head nearest, what would be, stick figure of [redacted] left arm, is that accurate?

Sloan
A. Yes, it is, sir.

Nemeth
Q. Okay. And what position is Kluth in? Face up? Face down? Or on his side?

Sloan
A. He is not exactly, completely face down. Almost kind of off to a side with the arm, this way around him.

Nemeth
Q. Okay. Do you remember which side he was on. Was he on his right shoulder or his left shoulder? Or if you could remember which way was he facing? Was he facing towards the showers or facing down if you remember?

Sloan
A. Well, the angle is pretty close to this right here. I wouldn't say facing the shower like suspect [redacted] was. Okay. More so as of an angle here, okay.

Nemeth
Q. Now when you say the angle, I mean, which way was he looking. Was he on the side or was he face down or face up, you know?

Sloan
A. I would have to say close to face down.

Nemeth
Q. Close to face down. Okay. All right. And then you came in and worked your way up towards [redacted]' head. Is that right?

Sloan
A. No. Not really his head.

Nemeth
Q. Okay. Go ahead and show me what you did -- where you were positioned?

Sloan
A. Okay. I would say with just a circle unless --

Nemeth
Q. No. Fine.

Sloan
A. -- you would like me to first --

Nemeth
Q. Circle's fine.

Sloan
A. A circle right here would be the upper-middle back area.

Nemeth
Q. Of [redacted]' right side?

Sloan
A. Of [redacted]' right side.

Nemeth
Q. Okay.

Sloan
A. That's correct.

Nemeth
Q. Put your a -- put an "S" in there for me.

Sloan
A. Okay.

Nemeth
Q. Okay. So, that's where you came in?

Sloan
A. Yes, sir.

Nemeth
Q. And then when you saw an opportunity you applied -- attempted to apply some type of control to [redacted]' chin, which had no effect?

Sloan
A. Yes, sir.

Nemeth
Q. Okay. And then you began to pull on inmate [redacted]' right arm. Is that right?

Sloan
A. I was not -- No. I wasn't really pulling.

Nemeth
Q. Okay.

Sloan
A. Ah, at that time Deputy [redacted] was attempting to get his arm out--

Nemeth
Q. Okay.

Sloan
A. --and it was some moments later when his arm did come free in a straightened up sort of -- trying to hit -- sort of trying to get up. Just very crazy. Very crazy at the time.

Nemeth
Q. Okay. Show me where [redacted] was with a circle and an "[redacted]" in it?

Sloan
A. Okay. I would say he was over his upper right side of the back. I'm sorry. Here's an "[redacted]' right there.

Nemeth
Q. Okay.

Sloan
A. Upper-right side of the back area.

Nemeth
Q. Okay.

Sloan
A. Kind of over him.

Nemeth
Q. Close to you?

Sloan
A. Yes, sir.

Nemeth
Q. You drew the circles touching each other. Where you that close?

Sloan
A. I would say we were that close.

Nemeth
Q. You mean you were touching close?

Sloan
A. Yes, sir.

Nemeth
Q. Okay. And where was [redacted], then?

Sloan
A. I don't -- I would say at that time --

Schwab
A. Well, if you know (inaudible).

Nemeth
Q. Yeah, if you know.

Schwab
A. You can make a distinction if you are sort of speculating of if you are (inaudible)

Sloan
A. I -- No. I do not want to guess from -- it is as accurate as I can be, he was on the left side. Somewhere, trying to get the arm off of Deputy Kluth.

Nemeth
Q. Okay. So, on the opposite side of [redacted] from where you were? Correct?

Sloan
A. That's correct.

Nemeth
Q. So you know that for sure, right?

Sloan
A. No. I'm not going to say I know that for sure. I do know he was on the left side. The left side of him. From what I can remember trying to get the left arm out.

Nemeth
Q. Okay. That's what you remember. He's on the other side?

Sloan
A. That's correct.

Nemeth
Q. Okay. And [redacted] was working on inmate [redacted]' right arm, you said, right?

Sloan
A. Yes, sir.

Nemeth
Q. Trying to pull it out. Okay. Well, at some point you said the inmate's leg started kicking or thrashing around, something like that?

Sloan
A. The -- his whole body at that time was going. I wouldn't just say that his legs were kicking and thrashing. His -- it almost seemed like he was trying to get up. It was a constant thrashing of the body. It was a constant trying to almost if you were gonna do a push up. Pushing up.

Nemeth
Q. Uh-huh.

Sloan
A. And then relieving. Putting his arm back underneath of him, again. Yes, the legs had been also going, kind of in a kicking or thrashing style, the thighs coming up backwards -- I don't know how to describe that, but just his whole body had been going at that time. I wouldn't say just his legs had been kicking (inaudible).

Nemeth
Q. Okay. Did the inmate punch you?

Sloan
A. No, sir.

Nemeth
Q. Did he kick you?

Sloan
A. No, sir.

Nemeth
Q. Did he punch [redacted], that you saw?

Sloan
A. That I saw. No, sir.

Nemeth
Q. Did he kick he [redacted], that you saw?

Sloan
A. No, sir.

Nemeth
Q. How about did he kick Kluth?

Sloan
A. I could not -- I could not tell you. I don't know if he had kicked him. I never saw him.

Nemeth
Q. Okay. Just that you saw, what had happened.

Sloan
A. Okay.

Nemeth
Q. Did you see the inmate kick or punch [redacted]?

Sloan
A. No, sir.

Nemeth
Q. Okay. So, what happened with the legs. Who came in to secure the legs then at that point?

Sloan
A. At -- nobody yet.

Nemeth
Q. Nobody yet?

Sloan
A. From what I saw. Nobody had secured anything here.

Nemeth
Q. Uh-huh.

Sloan
A. We were now working on his right arm.

Nemeth
Q. Uh-huh.

Sloan
A. Putting it in back of him, trying to get him cuffed and subdued as best we can --

Nemeth
Q. Uh-huh.

Sloan
A. But this, I'd like to make one point.

Nemeth
Q. Please do.

Sloan
A. The -- as far as the trying to get the arm out, once again, that also felt like a lifetime. It was -- the strength of this guy was incredible. It was strength that I had never felt before. So, it wasn't to the point to where I tried and put the control hold on there. Control hold is obviously not working, as far as I was concerned. He was showing absolutely no pain compliance. So we went to work on his arm and that was -- it was a lengthy time. Also in trying to keep him -- trying to keep him from getting up, also, I mean, it was just -- I wanted to make that clear that it wasn't just putting the pressure point and then we got the arm. There was some time in between that.

Nemeth
Q. Okay. Can you estimate how much time it was?

Schwab
A. Like hours?

Sloan
A. Felt like about ten rounds.

Nemeth
Q. Okay. Let's -- I can imagine that.

Sloan
A. Sir, I don't mean to make a joke and I'm not making a joke, that's what it felt like.

Nemeth
Q. Uh-huh.

Sloan
A. I can't -- I don't know how long.

Nemeth
Q. Okay. All right. So, what -- you mentioned pain compliance, what are you referring to when you mentioned that?

Sloan
A. In my opinion if you were going to handcuff somebody, pain compliance, being if they are fighting you or resisting, a simple pain compliance as far as, like what I was using, using a pressure point in order to get his hands behind him to get him handcuffed.

Nemeth
Q. Okay. Did you apply any other pain compliance holds other than the one you described for us with the chin?

Sloan
A. No, sir. No, sir.

Nemeth
Q. Did anybody else?

Sloan
A. Not from what I saw.

Nemeth
Q. Okay. And so what happens with the inmate's legs when they are thrashing around? I think you said earlier, you went down and grabbed his legs. Secured his legs?

Sloan
A. After we had got him handcuffed, it seemed like there was a low point for just a brief second, two seconds, almost like we were done. Then he started going again. The rocking, the thrashing, the legs starting to kick again.

Nemeth
Q. Uh-huh.

Sloan
A. I immediately was able to pull his ankles back and where I am at now is if I -- we can picture this. I am, my back is to his head. His head being right here.

Nemeth
Q. Okay. Just put an arrow on your "S" there to show which way your pointing.

Sloan
A. Okay. Okay. I am now pointing this way.

Nemeth
Q. Okay.

Sloan
A. Straddling him as (inaudible).

Nemeth
Q. For the record what you did is you put an arrow on your mark that you're indicating is yourself and faced it towards the A/C row showers. Is that right?

Sloan
A. Yes, sir.

Nemeth
Q. Okay. So your backs is towards [redacted]' head, right?

Sloan
A. Yes, sir.

Nemeth
Q. Okay. Now, when you are in this position did you see any other deputies respond in here?

Sloan
A. No, sir.

Nemeth
Q. Did you ever see Deputy Kammer?

Sloan
A. No, sir.

Nemeth
Q. Did you ever see Deputy Broad?

Sloan
A. No, sir.

Nemeth
Q. Did you ever see Deputy Christolon?

Schwab
Q. Who?

Nemeth
Q. Christolon?

Schwab
A. Christolon.

Sloan
A. The time that I saw Deputy Christolon was when they were putting him on a gurney. A gurney was brought up to -- then transferred him to the clinic. I yes. I remember seeing him then.

Nemeth
Q. Okay. You don't remember ever seeing Broad?

Sloan
A. No, sir.

Nemeth
Q. Don't ever remember seeing Kammer?

Sloan
A. No, sir.

Nemeth
Q. How about Barrett?

Sloan
A. At the same time, like I said with Christolon is -- what, yes. I do remember seeing Deputy Barrett.

Nemeth
Q. Uh-huh. Okay. Is it possible that Deputy Kammer or Broad were there holding the inmates legs and you weren't aware of it?

Sloan
A. Yes, sir.

Nemeth
Q. It is?

Sloan
A. Yes, it is possible.

Nemeth
Q. Okay. You're facing the inmates legs though, aren't you? Indicated by your arrow here?

Sloan
A. Yes, sir.

Nemeth
Q. Okay.

Sloan
A. At that time the only people who were doing anything with his legs were myself, like I stated, having control of his ankles.

Nemeth
Q. Right.

Sloan
A. And pulling back so I could gain complete full control --

Nemeth
Q. Okay.

Sloan
A. -- and [redacted], who had, I can't say that he was -- had a lock with his hands together holding his legs together, he was trying to keep his thighs down. Kind of laying over his thighs.

Nemeth
Q. Okay. This is -- at this point, this is after the inmate's been handcuffed, is that right?

Sloan
A. Yes, sir.

Nemeth
Q. Okay. So, prior to him being handcuffed, did you participate in the handcuffing?

Sloan
A. Yes, I did.

Nemeth
Q. Okay. And then as soon as the handcuffing was done, you then concentrated on the inmates legs? Is that right?

Sloan
A. Not initially.

Nemeth
Q. Not initially?

Sloan
A. Not initially.

Nemeth
Q. It was a lull, you said (inaudible)--

Sloan
A. There was a second, maybe, sort of getting him cuffed. Trying to catch your breath--

Nemeth
Q. Uh-huh.

Sloan
A. --sort of deal. But it wasn't, "Okay, let's sit back and get our bearings straight here."

Nemeth
Q. Okay.

Sloan
A. It was, we had him cuffed, kind of a low point and then the suspect began to go again.

Nemeth
Q. All right. So, as you sit here today, is it the first you ever heard of Broad or Kammer being there, when I asked you if you saw them there?

Sloan
A. No, sir. It's not.

Nemeth
Q. Okay. Well, you never saw them there is that what your saying?

Sloan
A. That's correct. I never saw them there.

Nemeth
Q. Okay. And did you later learned they were there?

Sloan
A. Yes. I did later learn.

Nemeth
Q. Okay. When did you later learn that they were there?

Sloan
A. I'm thinking either later that night or the -- may have been the next shift that we had a -- I had spoken with them. And talked about -- and they said, "How did, you know, sort of how did everything go," and we said, "Yeah, we'd," you know, "gone down there and everything was pretty much code four." That was --

Nemeth
Q. Who said that?

Sloan
A. That was sitting with -- I believe I was talking with Deputy Broad at the time.

Nemeth
Q. And he, it was Broad that was saying those things to you?

Sloan
A. That's correct.

Nemeth
Q. Did Broad tell you that he held the inmates leg down?

Sloan
A. No, sir.

Nemeth
Q. And you didn't see him then?

Sloan
A. No, sir.

Nemeth
Q. And how about Kammer, did you ever talk to Kammer about this incident?

Sloan
A. No, I did not.

Nemeth
Q. Did Kammer ever ask you or mentioned that he had been down there and it seem like it was code four or anything like that?

Sloan
A. No, sir.

Nemeth
Q. When Broad was talking to you, did he mentioned that Kammer was with him?

Sloan
A. He may have. He may have. I cannot tell you specifically and I don't recall the full conversation but he very well may have.

Nemeth
Q. Uh-huh. Okay. Now, you prepared a supplemental report in this case, correct?

Sloan
A. Yes, sir.

Nemeth
Q. Okay. And did we provide that for you? I see it sitting on the table there in front of us.

Sloan
A. Yes.

Nemeth
Q. Okay. Have you had an opportunity to review that?

Sloan
A. Yes, I have.

Nemeth
Q. Okay. Did you also talk to a supervisor in this case at the time?

Sloan
A. Yes, uh-huh, we went and made our proper notifications, also Sergeant Mosely, who, I believe, was the floor sergeant at the time, responded to the area.

Nemeth
Q. And, who did you notify of the event.

Sloan
A. Notified Sergeant Mosely, and then we talked it over with him, told him what happened, he says, "Okay, go ahead and inform Sergeant Duncan," who had happened to be acting watch commander.

Nemeth
Q. Okay, and we gave you portions of the, those documents prepared by those individuals, Duncan and Mosely, that reference the statements you made to them.

Sloan
A. That's correct.

Schwab
A. Let me clarify for the record that we have only a very brief statement from the sergeant, which does not outline anything other than the inmate fought with the deputies. And, also, a further statement from Sergeant Duncan regarding questioning about a flashlight, we don't have any statements from Sergeant Mosely, actually we do have a statement from Sergeant Mosely, but my question to you, Sergeant, is, are there any additional statements, for example, if you've interview the two sergeants and they related information to you about the deputies' statements, we would be entitled to see those, as well.

Nemeth
Q. Okay.

Schwab
A. And we do not have those.

Nemeth
Q. Right. You have the reports that they prepared, and that's all that I have at this time, I don't have their statements, transcribed, I don't have the--

Schwab

A. Well, it doesn't matter if they were transcribed, we're entitled to hear what they related the deputies said.

Nemeth
Q. Right.

Schwab
A. And you don't have that.

Nemeth
Q. No.

Schwab
A. And they have not been interviewed by you in terms of what the deputies reported to them.

Nemeth
Q. They've been interviewed about the incident, and, and in that regard, yes.

Schwab
A. Okay, well before we answer any questions about what this deputy or any other deputy said to the sergeants, we're entitled to see what they related (inaudible) whether it's in a report or an interview or whatever form it was that they reported that information to you, we're entitled to see that.

Nemeth
Q. Okay.

Schwab
A. You had already indicated that Sergeant Mosely and Sergeant Duncan have been interviewed, and we do not have statements that they made regarding what was related to them, or what their version is of what was related was to them by Deputy Sloan or any of the deputies who you are planning on interviewing in the next five days. We are requesting those now, we'll be happy to take a break for you to provide those.

Nemeth
Q. We'll, we'll provide 'em.

Schwab
A. Okay.

Nemeth
Q. Let me, just for the record, say, Sergeant Duncan has not been interviewed. The documents you possess are all that are in the record regarding Sergeant Duncan's statements. Sergeant Mosely has been interviewed; we will provide you with the, the statements that

he made regarding what Deputy Sloan and others told him. Did you talk to Sergeant Mosely yourself?

Sloan
A. That night?

Nemeth
Q. Yes.

Sloan
A. Not personally, not, not individually, I'm sorry.

Nemeth
Q. Not individually.

Sloan
A. All at the same--

Schwab
A. Wait, we haven't finished this, we need to see those.

Nemeth
Q. Okay, you, you certainly have but as your client just stated that he did not personally talk to Sergeant Mosely that night.

Schwab
A. No, he said he did not individually--

Nemeth
Q. Individually talk to him, right.

Schwab
A. That didn't mean that he didn't go there collectively with the other deputies, though.

Nemeth
Q. Did you go there collectively with the group to speak with Sergeant Mosely?

Sloan
A. He was, he had responded to the location.

Nemeth
Q. Did you talk to him at the location?

Sloan
A. Yes, sir.

Nemeth

Q. Okay, alright, when we get to that point, I'll give you statements, okay--

Schwab
A. And when we--

Nemeth
Q. --we may not--

Schwab
A. --get a break to go over those.

Nemeth
Q. Okay, sure, no problem. We may not get to that point, okay, this only becomes a point if I'm gonna be asking you questions about that particular area, okay. Alright. So, let me ask you this now, you made the notification as you said, proper notification, and did you write a supplemental report which, which I've provided to you here?

Sloan
A. Yes, I did.

Nemeth
Q. Okay, alright. Do you, do you remember any other deputies being there besides yourself, Kluth, [redacted], [redacted], Caesar Romero, anybody else?

Sloan
A. Are we speaking during the altercation?

Nemeth
Q. Yes.

Sloan
A. No, sir.

Nemeth
Q. No, that's, that's it, that's all.

Sloan
A. I (inaudible) that's all.

Nemeth
Q. Okay, and then did you see any other deputies arrive after the altercation?

Sloan
A. The, the deputies that I remember, I remember they were, while putting him on the gurney, there was a 6000 prowl. No, I'm sorry, there was a senior who had come up with the gurney, there was a

prowler, I believe it was [redacted], who had gone down with the senior to take this guy to the clinic, Deputy Christolon, who, I, I remember. But this all, and all this time, these are people after the fact, after the sergeant had gotten there, Senior Jackson, who I remember was the floor senior that night, I believe, for both 4000 and 5000--

Nemeth
Q. Uh-huh.

Sloan
A. --he was accompanied with Sergeant Mosely. They were there, but it's, that's about all I can remember as far as any other deputies being there.

End Tape One --

Nemeth
Q. Okay. Okay, go ahead, we're talking about O.C. spraying you on the (inaudible).

Sloan
A. I did not have, I have a O.C. spray, I did not have it with me that night.

Nemeth
Q. Okay. You have been trained in it, and one had been provided for, or did you purchase your own, or--

Sloan
A. One had been provided for me.

Nemeth
Q. Do you know, that, any of the other deputies involved, Kluth, [redacted], or [redacted] have O.C. spray that night?

Sloan
A. Not that I was aware of.

Nemeth
Q. Okay.

Schwab
A. Is, by virtue of your asking that Sergeant, are you suggesting that where an inmate is in close and choking at a deputy that he should use O.C., the deputy should use O.C. spray on the inmate, and also on the deputy, is that, is that the department's position?

Nemeth
Q. Miss Schwab, I merely asked the question, he provided the answer, I'm not--

Schwab
A. Right.

Nemeth
Q. --asserting any position or anything, I'm just asking questions here, okay?

Schwab
A. It, it just appears from that question that somehow the deputies should have used the inmate, used the O.C. spray on the inmate when they had to be close in themselves with the inmate to save another deputy's life. It seems to be to be extremely harmful for the deputies involved, and particularly to Deputy Kluth, who was, at that time, being choked out and his breathing passages blocked by the inmate. At least, according to what those deputies saw.

Nemeth
Q. Okay. Thank you for your point, we'll--

Schwab
A. That's my tape recorder, please don't move it.

Nemeth
Q. --it will be noted for the record, but, I'm not making any assertion, I'm just asking the questions, okay, Deputy Sloan?

Sloan
A. Yes, sir.

Nemeth
Q. Alright. Did you have a flashlight that night?

Sloan
A. No, sir.

Nemeth
Q. Okay. Did you personally use a flashlight on the dep, on the inmate?

Sloan
A. No, sir.

Nemeth
Q. And, did anybody use O.C spray on the inmate?

Sloan
A. No, sir.

Nemeth

Q. Okay. Did Deputy Romero ever touch the inmate, the person who relieved you in the booth, Caesar Romero, did he ever touch the inmate?

Sloan
A. I never saw him touch the inmate. No, sir.

Nemeth
Q. Okay, and you don't know what [redacted], what Romero did afterwards, right?

Sloan
A. No, sir.

Nemeth
Q. Alright, did, did you ever kick the inmate yourself?

Sloan
A. No, sir.

Nemeth
Q. Did you ever grab a hold of either the inmate's legs, and hold them in such a fashion that they were split open?

Sloan
A. I wouldn't say they split open, the time that I had his legs, I wouldn't say they were split open, and I wouldn't say they were completely closed at that time, but I, no, I would not say split, split open, no.

Nemeth
Q. Okay. Did, did Deputy Romero, not Romero. Did Deputy [redacted] kick the inmate?

Sloan
A. No, sir.

Nemeth
Q. Did you ever see him kick the inmate?

Sloan
A. I never saw him kick the inmate.

Nemeth
Q. Did he ever punch the inmate?

Sloan
A. From what I had seen, he had given him a couple of strikes with his, with closed fist onto the right upper back, shoulder region--

Nemeth
Q. Uh-huh.

Sloan
A. --that was the only time that I saw him hitting him.

Nemeth
Q. Okay, and how about yourself, did you punch the inmate?

Sloan
A. No, sir.

Nemeth
Q. Okay. Make sure I have an accurate understanding of your force on this inmate, it consists of attempting to apply a pressure point control hold under the inmate's chin, is that right?

Sloan
A. Yes, sir.

Nemeth
Q. And then, assisting [redacted] in pulling inmate [redacted]' right arm out and handcuffing him?

Sloan
A. I wouldn't say pulling it out, the arm, it was already extended, in which I was able to put him in a control hold with his wrist being backwards, and then just following it with the help of [redacted].

Nemeth
Q. Okay, and did you apply the handcuff then, or--

Sloan
A. Yes, sir. I helped in applying the handcuffs.

Nemeth
Q. Okay. Anything else that you did with the inmate?

Sloan
A. No, sir.

Nemeth
Q. Well, you did something to his legs, didn't you?

Sloan
A. Afterwards, are you talking about?

Nemeth

Q. Well, you said there was a lull and then he started thrashing again.

Sloan
A. That's correct.

Nemeth
Q. Okay.

Sloan
A. That's correct.

Nemeth
Q. What did you do with his legs?

Sloan
A. His legs, I was able to with my, like I stated my back towards the head of the inmate being still right next to the bars here, I was able to straddle him, in which I was gaining control of both the front of his ankles, and bring those towards me, back towards me.

Nemeth
Q. Okay, did you apply the hobble?

Sloan
A. Yes, I did.

Nemeth
Q. Uh-huh. Okay. So, you were straddling over both of the inmate's legs, is that right?

Sloan
A. I was straddling over one.

Nemeth
Q. Over one?

Sloan
A. Yes.

Nemeth
Q. But, you were pulling both ankles back towards the inmate's buttock's area, or something like that?

Sloan
A. That's correct.

Nemeth
Q. Okay. Where were your, where would your right foot have been?

Sloan
A. My right foot would have been, probably with my toes into his lower back, maybe.

Nemeth
Q. Into his lower back, into, it was going between his buttocks and on his back, then, type thing? If your shoe was on inmate [redacted]' back, is that what you're saying?

Sloan
A. I would say that, I was, when I was straddling him, I had one foot, or one knee, on the concrete in between pulling back on his legs where my foot was, I, if I had to guess as to where I was, where I was straddling him, I would say that my foot was right in the lower back area, probably.

Nemeth
Q. Well, was your foot in the inmate's groin area?

Sloan
A. No, it was not.

Nemeth
Q. You're certain of that?

Sloan
A. Of my foot?

Nemeth
Q. Yes.

Sloan
A. Yes, sir.

Nemeth
Q. How are you certain?

Sloan
A. Because of where I was straddling him.

Nemeth
Q. Okay, alright, so there's no chance that your foot was contacting the inmate's genitals or anything like that, then, is that correct?

Sloan
A. Not that I can remember, sir, no.

Nemeth
Q. Okay.

Schwab
A. Let me just ask a question. Is the inmate, at this point, on his back or his side, or on his stomach?

Sloan
A. He is still handcuffed on his stomach.

Nemeth
Q. Okay. So, alright. Was it, did, was anybody reaching behind you, dealing with the inmate's genitals or anything like that at that point?

Sloan
A. No, sir, not that I was aware of. No, sir.

Nemeth
Q. All right. Did you ever, well, somebody would, based on your body position, if I understand correctly what you're describing for me, if somebody was touching or going near the inmate's genitals, they'd have to be touching you or going, reaching around your leg--

Sloan
A. At what point, sir, the part where I was trying to hobble him?

Nemeth
Q. Right. The point, point we're just talking about where you said you had your knee on the concrete in between his legs, your foot was on his lower back, and you're pulling both his ankles together towards his buttocks, that point.

Sloan
A. That's correct.

Nemeth
Q. So, you're basically right in that area, correct?

Sloan
A. That's correct.

Nemeth
Q. So, there's no way that anybody else could have reached in there and done anything.

Sloan
A. No.

Nemeth
Q. Not at that point, right?

Sloan
A. No.

Nemeth
Q. Is that correct?

Sloan
A. That's correct, sir.

Nemeth
Q. Okay. Alright, so, did you ever see [redacted] kick the inmate?

Sloan
A. No, sir.

Nemeth
Q. Did you ever see Kluth kick the inmate?

Sloan
A. No, sir.

Nemeth
Q. Did you ever see [redacted] punch the inmate?

Sloan
A. At the beginning, when I was responding, being, coming out of the booth now, I saw Deputy [redacted] strike the inmate in the thigh, the leg, the thigh area on the side there, that was, that was the last that I had seen him using any force as far as hitting.

Nemeth
Q. That was [redacted].

Sloan
A. That's correct.

Nemeth
Q. Okay. Did you see, did you see Kluth punch the inmate?

Sloan
A. No, sir.

Nemeth
Q. Okay. Did you see [redacted] attempting a knee thrust or anything like that?

Sloan
A. No, I did not.

Nemeth

Q. Could he have done it, and you not be aware of it?

Sloan
A. Yes, sir.

Nemeth
Q. Did you see any deputy near the inmate's groin, genital area--

Sloan
A. No, sir.

Nemeth
Q. --at any time?

Sloan
A. No, sir.

Nemeth
Q. Are you aware of what injuries the inmate sustained?

Sloan
A. I was told by personnel that he had sustained a, if they are, if they were correct with their terminology, a ruptured testicle, and that was the only injury that I heard he had sustained, with the exception of what they had written down at the clinic as far as the inmate injury report, as far as the, as far as what they wrote down, that was the only injury that I was aware of.

Nemeth
Q. Did you see any blood in the module?

Sloan
A. Yes, sir.

Nemeth
Q. Okay, where was the blood coming from?

Sloan
A. When I had saw it, I didn't, I don't know where it was coming from. I, after we had hobbled his legs, and we had him handcuffed now, he was put onto his side, and I could see, on the cement, near his head, where blood had been smeared, and what it, what we were able to see was he had a beard at the time, okay, we were able to see blood on his, inside of his beard hairs, which we figured that is what created the spreading on the, on the concrete.

Nemeth
Q. Okay. So, are you saying the blood was coming from inmate [redacted]?

Sloan

A. Yes, sir.

Nemeth
Q. Do you know where it was coming from on his body?

Sloan
A. At that time, no, I do not. On his, on his body, I would say that, at that time, it was coming from his, his region of his head.

Nemeth
Q. Okay, you know how the inmate sustained that injury that was bleeding?

Sloan
A. No, sir.

Nemeth
Q. Okay. Based on what you're describing to me, you didn't see anybody near the inmate's groin or genital area?

Sloan
A. No, sir.

Nemeth
Q. You have any idea how this ruptured testicle thing comes up?

Sloan
A. How it, how he sustained it?

Nemeth
Q. Yes.

Sloan
A. No, I don't sir.

Nemeth
Q. Did you see anything going on the module that could have caused that injury?

Sloan
A. No, no I did, I'm sorry, I didn't mean to butt in there, interrupt you, no I did not.

Nemeth
Q. Okay. Alright, now, you never did anything with your feet that could even be looked like it was some kind of a kick or something like that?

Sloan

A. No, sir, not that I remember.

Nemeth
Q. Any kind of positioning with your body or anything?

Sloan
A. No, sir.

Nemeth
Q. Okay. Alright, Let me just remind you at this point, that that form you signed earlier on--

Sloan
A. Uh-huh.

Nemeth
Q. --you have a, a duty to give us full, complete, truthful statements, okay. I assume you're saying, yes.

Sloan
A. I'm sorry, yes, sir.

Nemeth
Q. Okay. We've interviewed other people in this case, obviously, and there are some witnesses that have made statements that are substantially different from what you're saying, so I need to ask you. I mean, this is your opportunity to explain what happened, okay, and if there's some reason that, that you needed to do something or something like that, that's one thing, okay, but, if, if your statement is, you know, substantially different from a number of other witnesses, okay. We've interviewed Deputy Romero, Caesar, who was standing here at the door, and we've interviewed other witnesses and things like that, so you need to think about it, and, and really make sure that that's accurate, you never made any kind of kicking motion, or anything towards the inmate?

Sloan
A. No, sir.

Nemeth
Q. You never held his leg up off of the ground at any point?

Sloan
A. No. The only time that I was dealing with his legs is when I was pulling back on his ankles, in order to gain control of him then, hog tie them.

Nemeth
Q. Uh-huh. And, [redacted] was on your, was on your right as you were doing this handcuffing maneuver, closer to the inmate's head than you were there, is that correct?

Sloan
A. That's correct.

Nemeth
Q. Did you ever see Deputy [redacted] reach in with his hand and squeeze the inmate's testicles or anything of that nature?

Sloan
A. No, sir.

Nemeth
Q. Do you think it would have been appropriate for somebody to do that if the inmate had Deputy Kluth in a choke hold or headlock?

Sloan
A. I, I'm sorry, I don't understand the question.

Nemeth
Q. Do you think that that would be an appropriate use of force to reach in, with your hand, and squeeze the inmate's testicles if the inmate had Deputy Kluth in a choke hold, headlock, whatever you want to call it?

Sloan
A. If you're asking me if that's something that I would do, no sir, that is, that is not common practice for something I would do.

Nemeth
Q. You wouldn't do that?

Sloan
A. No, sir.

Nemeth
Q. Why not?

Sloan
A. 'Cause it's never occurred to me, to ever do that.

Nemeth
Q. Okay.

Sloan
A. It's not something I've been taught, and it is nothing that has ever even occurred to me.

Nemeth
Q. Okay. Sergeant Gjendem?

Gjendem

Q. Yeah. When [redacted] and [redacted] came down to the module, you said you motioned for them, motioned to them where the altercation was going on between Kluth and [redacted]. Did you motion with your hands, or how did you motion, or did you say something to them?

Sloan
A. Both.

Gjendem
Q. You did?

Sloan
A. Yes, I did, both.

Gjendem
Q. And what did, what is what you said?

Sloan
A. Something to the effect pointing to this area, "They're right here, they're right here."

Gjendem
Q. Okay, now was the door open a crack then?

Sloan
A. Which door, sir?

Gjendem
Q. The, the door to the deputies' work area?

Sloan
A. Yes, it was.

Gjendem
Q. That was closed.

Sloan
A. Yes, it was.

Gjendem
Q. Okay, was it locked?

Sloan
A. Not--

Gjendem
Q. At the time?

Sloan
A. --no, and then, like I had explained before, the door itself, unless you really worked on closing the door, it would not secure

itself by locking. The door would presume to be shut, it did close, it did make a sound of being closed, but no, it was not locked, due to the, due to the malfunction of the door itself.

Gjendem
Q. Okay. The first assisting deputies that we've got arriving there are [redacted] and [redacted], correct?

Sloan
A. Yes, sir.

Gjendem
Q. And, the next person to come inside the one gate into 4400, is Deputy Romero.

Sloan
A. Yes, sir.

Gjendem
Q. How much time elapsed between the arrival of [redacted] and [redacted] and Deputy Romero?

Sloan
A. Seconds.

Gjendem
Q. We're talking seconds.

Sloan
A. Talking seconds.

Gjendem
Q. Thirty seconds?

Sloan
A. No, sir. No.

Gjendem
Q. Fifteen seconds?

Sloan
A. I would have to go even less.

Gjendem
Q. Ten seconds?

Sloan
A. Less than ten seconds.

Gjendem
Q. Five seconds?

Sloan
A. Less than ten seconds, I would say.

Gjendem
Q. Okay.

Sloan
A. Somewhere in that region.

Gjendem
Q. Somewhere in between one and ten.

Sloan
A. One and ten seconds.

Gjendem
Q. Okay, were you watching during that entire ten seconds, between the time that [redacted], till Deputy Romero got there, were you watching what [redacted] and [redacted] were doing with the inmate and with Kluth?

Sloan
A. Yes, sir.

Gjendem
Q. For the entire ten seconds?

Sloan
A. Wouldn't say for the entire ten seconds, because I can't, I can't tell you it was a full ten seconds.

Gjendem
Q. Okay.

Sloan
A. In between, so, would it be accurate for me to say that it was five seconds, it very well could have been. Could it have been three seconds, it very well could have been. I feel very comfortable with saying in between one and ten seconds was the time lapsed from when these two deputies came in, to the time that Deputy Romero came in, that I can remember.

Gjendem
Q. Okay. During that time period that we're talking about, the first two assisting deputies, until Deputy Romero got there, were you watching over there the entire time?

Sloan
A. Yes, sir.

Gjendem
Q. Okay. [redacted] was on [redacted]' left side, is that correct?

Sloan
A. Yes, sir.

Gjendem
Q. What was [redacted] doing?

Sloan
A. When they had turned the corner, is when both Kluth and suspect [redacted] had then hit the floor. I can't, I don't know at that particular time what he was doing. I don't know if he was--

Gjendem
Q. I'm talking about [redacted].

Sloan
A. --yes, sir, yes, sir, yes, sir. From what I remember, from the time that I had gone from the door to help assist, I remember seeing Deputy [redacted] strike the suspect in the back of his legs, or attempting to gain control of his legs, somehow.

Gjendem
Q. Okay. Was anybody pulling on inmate [redacted]' left arm to free Deputy Kluth?

Sloan
A. At that time, there very well could have been.

Gjendem
Q. During that time period that you were--

Schwab
A. Just--

Gjendem
Q. --watching over them.

Schwab
A. --just what you observed, just what you observed.

Sloan
A. During that time frame, no. I don't remember pulling on his left arm.

Gjendem
Q. Did you see anybody pulling on his left hand, then?

Sloan

A. No, sir, I, what I remember from the left side with the arm, when they had gone down, suspect [redacted] had still had a hold of Deputy Kluth. I remember Deputy Kluth fighting to push, would you say push the arm off of his neck, and then, that's about all I can remember as far as the left side.

Gjendem
Q. And then, when you went over there, you didn't bother grabbing the inmate's left arm, either, is that correct?

Sloan
A. No, sir, at the time, when I got there, Deputy [redacted] had now moved upwards working on the left arm, trying to get it so he could put it to the small of his back, so he could get him cuffed.

Gjendem
Q. How did the left arm become free, do you know?

Sloan
A. I have no idea, sir.

Gjendem
Q. It wasn't from your pain compliance to the chin?

Sloan
A. No, sir.

Gjendem
Q. Was it--

Sloan
A. (Inaudible).

Gjendem
Q. --the struggle was still going on, then?

Sloan
A. That's true, and Deputy Kluth was free from the grasp at that point.

Gjendem
Q. When did he get free?

Sloan
A. I don't know when he got free.

Gjendem
Q. During the pain compliance?

Sloan
A. No, sir.

Gjendem
Q. It was after your pain compliance hold?

Sloan
A. No, he had already been free from his grasp, from what I remember, he was free from his grasp by then, 'cause as I stated the pain compliance that I was using was a lengthy time, now when I say lengthy, I don't mean that I was there for two minutes using pain compliance, but I, it had taken several times before I had finally realized that it wasn't going to work. When I started to work on inmate's, the inmate's arm now, as far as when it had come out, and now we can get compliance, I knew then that Deputy Kluth had been freed.

Gjendem
Q. Okay, so by the time you grabbed the inmate's right arm, and put a wristlock on it, as you explained, the left arm had let go of Kluth's, let go of Kluth's neck.

Sloan
A. That's correct.

Gjendem
Q. What did Kluth do then?

Sloan
A. I don't, I don't have any idea, sir.

Gjendem
Q. Did he--

Sloan
A. I was not--

Gjendem
Q. --did he leave the module?

Sloan
A. No, he was there the whole time.

Gjendem
Q. He was there the whole time?

Sloan
A. Yes, he was.

Gjendem
Q. Down on the floor down here.

Sloan
A. That's correct.

Gjendem
Q. Okay. When you initially down there with the inmate, were you kneeling on the floor, or--

Sloan
A. --that's correct.

Gjendem
Q. --you had--

Sloan
A. I'm sorry, go ahead and finish (inaudible).

Gjendem
Q. --or did you have your knees in his back, or where did you have your knees, or were you just bent over?

Sloan
A. I was, if I remember correctly, one foot on the ground kneeling on one trying to, trying to get inside in order to--

Schwab
A. You were kneeling on one of your legs--

Sloan
A. One of my legs--

Schwab
A. --on the concrete.

Sloan
A. --on the concrete, that's correct.

Gjendem
Q. Okay, and your other knee?

Sloan
A. I believe I was just on one knee.

Gjendem
Q. Just on one knee?

Sloan
A. Yes.

Gjendem
Q. Okay, and we've got [redacted] now on the other side, and I think you motioned twice now, where you said [redacted] hit him twice in the buttocks, or the thigh area, is that correct?

Sloan
A. Well, I don't, I don't know how many times. I do know that I had saw him strike in the back thigh, side thigh area of his, which would have been his left side at the time.

Gjendem
Q. Okay. You motioned with your right hand into the right side, but actually, it was the left side.

Sloan
A. That's correct.

Gjendem
Q. Okay, so that would have been two times, you said?

Sloan
A. I don't know, sir.

Gjendem
Q. You don't know.

Sloan
A. I don't know.

Gjendem
Q. He struck him twice in the left thigh.

Sloan
A. Yes, sir.

Gjendem
Q. Right.

Sloan
A. Well, no, I'm gonna say he struck him twice, I, I don't know how many times.

Gjendem
Q. Struck him on the left thigh.

Sloan
A. Yes.

Gjendem
Q. Now, was he handcuffed at that point?

Sloan
A. No, sir.

Gjendem
Q. He wasn't handcuffed?

Sloan
A. No, sir.

Gjendem
Q. Okay. Was [redacted] kneeling?

Sloan
A. I, if I remember correctly, yes, he was kneeling down.

Gjendem
Q. Okay, and [redacted]?

Sloan
A. Yes.

Gjendem
Q. He was kneeling down, also?

Sloan
A. Yes.

Gjendem
Q. So, pretty much the weight of the three deputies that time were holding down inmate [redacted] as [redacted] was holding onto Kluth.

Sloan
A. I don't know if, I, I can't say their full weight was on them.

Gjendem
Q. Yeah, okay. Now, explain this handcuffing, I believe you said you got in a right wristlock, and you brought the wrist, or, brought it behind his back, did [redacted] bring the left arm back?

Sloan
A. If I remember correctly, yes.

Gjendem
Q. Okay. Once again, you don't know how the arm got free, then?

Sloan
A. I don't know how the arm got free.

Gjendem
Q. Okay, and he was handcuffed definitely behind his back?

Sloan
A. Yes, sir.

Gjendem

Q. Okay. This lull between the handcuffing and the applying the rip hobble, how much time lapsed in that, in that period of time are we talking about?

Sloan
A. Second or two, maybe, maybe three seconds, very, very short time.

Gjendem
Q. And what did he just start, quit struggling there for that short period of time?

Sloan
A. That's what it seemed like, yes, that's what it seemed like.

Gjendem
Q. And then, somebody made a decision to put a rip hobble on, correct?

Sloan
A. We made this decision after he started thrashing with his legs.

Gjendem
Q. Who made that decision, can you tell me that?

Sloan
A. I was one of them.

Gjendem
Q. Okay. And, did you say where you got the rip hobble from?

Sloan
A. I got it from Deputy Kluth.

Gjendem
Q. Okay. Do you know where he got the rip hobble from?

Sloan
A. It was his.

Gjendem
Q. Okay. He, he had it on him?

Sloan
A. Yes, sir.

Gjendem

Q. Okay. When you were straddling the inmate's buttock's area, when the inmate was still laying on his stomach, on his stomach, and you were facing towards the, I guess the, the door over here, the booth door, and you had a hold of the ankles of inmate [redacted], and you were pulling them both back, was he resisting at that point?

Sloan
A. Yes, sir.

Gjendem
Q. He was, was he trying to keep his legs flat or--

Sloan
A. Trying to keep them straight.

Gjendem
Q. --straight?

Sloan
A. Trying to open them, trying to do anything he could in order to get his legs out.

Gjendem
Q. Were you doing that by yourself?

Sloan
A. Pulling back on the legs?

Gjendem
Q. Yes.

Sloan
A. Yes, sir.

Gjendem
Q. There was nobody assisting you?

Sloan
A. Pulling back on his legs, no, there was nobody assisting me.

Gjendem
Q. You were able to do that by yourself?

Sloan
A. I was able to pull back on his legs by himself.

Gjendem
Q. At the ankle area?

Sloan
A. By myself, at the ankle area.

Gjendem
Q. At the ankle area?

Sloan
A. Yes, sir.

Gjendem
Q. And when you got his ankles back like that, were you holding him with one arm, and able to tie it with the, apply the rip hobble with the other hand, or how did you do that?

Sloan
A. What it was is, I was able to pull his feet backwards from his ankle area backwards with both, both my hands. I was then able to, with the help of Deputy [redacted], who was at the thigh area at that time, kind of hold him down, kind of holding down the legs. I was able to, with one hand, keep them back, grab the rip hobble, and the rip hobbles we have now are outstanding. You get the loop around, you pull and that thing tightens up immediately. At that time, I was able to put it around once or twice, I don't remember how many times, and I was able to hook it to the handcuffs.

Gjendem
Q. I believe when we first started this interview, I think you said at one time you were able to grab his legs and actually move the inmate, were you able, did you pull him away from this corner down here at one time?

Sloan
A. No, I never stated that, sir.

Gjendem
Q. Oh, I misunderstood you then. I thought at one time you said you grabbed his legs, and you tried to move him, or something like that.

Sloan
A. No, sir.

Gjendem
Q. Okay. How long do you think it took you to, after you grabbed the inmate's ankles, to get his, his ankles back to where they met your chest, were you able to rip hobble him?

Sloan
A. Seconds, seconds.

Gjendem
Q. Sixty?

Sloan
A. No, sir.

Gjendem
Q. Ten?

Sloan
A. No. When I refer to seconds, I would say somewhere in the fact of one to ten seconds, I would be as accurate as I can remember.

Gjendem
Q. Okay. And, once again, I think you said your right, your right foot was somewhere between the two legs, correct?

Sloan
A. No, not between the two legs--

Gjendem
Q. (Inaudible).

Sloan
A. --I would say in the bottom of the back area.

Gjendem
Q. Okay. Did you see anybody step on [redacted]' scrotum area?

Sloan
A. No, I did not.

Gjendem
Q. When you first got down to the module there, what did Kluth tell you about [redacted] before he went outside, before Kluth went outside the deputy's control booth?

Schwab
A. Would you repeat your question, please, Sergeant?

Gjendem
Q. Yes. What did Kluth tell you about inmate [redacted] when you first got down to the module and you went inside the deputy's control booth?

Sloan
A. Something to the effect that this guy's for whatever reason, not locking it down, and he has been hiding from me, and, "What do

you mean hiding?" And he says, "Well, he's backing himself up against the concrete here," and he says, "I, sometimes, I looked down, and I can't see him, I'm going to," you know, "I want to see what's going on with this guy, why he's not locking him down." From what he had told me, he had attempted several times to lock the trustee down by electronically, and the, trustee, I'm sorry, the inmate, and he did not comply.

Gjendem
Q. Okay, did you ever see the inmate out on the row?

Sloan
A. Yes, sir.

Gjendem
Q. You did?

Sloan
A. Yes, sir.

Gjendem
Q. Did you see any behavior that you thought might be out of the ordinary or bizarre being done by the inmate?

Sloan
A. At that time, no I did not.

Gjendem
Q. No.

Sloan
A. No, I did not.

Gjendem
Q. When you first got there, to the module, even before you entered, did you ever hear Deputy Kluth giving any public address announcements to any inmates?

Sloan
A. No, sir.

Gjendem
Q. Did you see any other inmates around there?

Sloan
A. No, sir.

Gjendem
Q. Did you ever see, you know what a bear hug is?

Sloan
A. Yeah.

Gjendem
Q. You know what a bear hug is?

Sloan
A. Yes.

Gjendem
Q. Chest to chest bear hug?

Sloan
A. Okay, I was looking at it another way, but if, okay.

Gjendem
Q. I'll describe it.

Schwab
A. Wait until he answers, asks the question.

Sloan
A. Okay.

Gjendem
Q. A face to face, or chest to chest bear hug?

Schwab
A. What are you asking, I'm sorry--

Gjendem
Q. Do you know--

Schwab
A. --I don't understand your question, it's not a question, so--

Gjendem
Q. I'll rephrase the question--

Schwab
A. --you're making a statement--

Gjendem
Q. --for you, okay, please, let me finish. Have you ever seen a chest to chest bear hug?

Sloan
A. Yes, I know what they are. I can't tell you that I've seen it before--

Gjendem
Q. Okay.

Sloan
A. --yes, I can visualize what it would be.

Gjendem
Q. Have you ever seen a chest to back bear hug with the person in the bear hug itself in front?

Sloan
A. I can visualize it, yes.

Gjendem
Q. Okay. Did you ever see that, either one of those two holds, accomplished by inmate [redacted] or Deputy Kluth?

Sloan
A. No, sir.

Gjendem
Q. You never saw Kluth having a bear hug on [redacted]?

Sloan
A. No, sir.

Gjendem
Q. Did you ever see [redacted] having a bear hug on Kluth?

Sloan
A. No, sir.

Gjendem
Q. The punching that you saw done by [redacted], on Deputy Kluth, I believe you described it Kluth, [redacted] had his left arm around Kluth's neck, and [redacted] was punching with his right hand, towards the face or head area of Deputy Kluth, correct?

Sloan
A. That's right.

Gjendem
Q. How many punches did you see?

Sloan
A. Continuous.

Gjendem
Q. How many?

Sloan
A. There is, sir, there is no way that I could count something like that, as far as accurately as I can tell you, it was a continuous striking at the head region.

Gjendem
Q. Continuous pummeling?

Sloan
A. Yes, sir.

Gjendem
Q. Okay. Did that continue until the deputy and the inmate went down to the ground, went down to the concrete floor?

Sloan
A. Yes, sir.

Gjendem
Q. Did it continue after that?

Sloan
A. Not from what I saw, sir, no.

Gjendem
Q. So, it started when he first grabbed him, and it ended when they hit the ground, correct?

Sloan
A. Yes.

Gjendem
Q. Did you ever hear any, any verbal announcements to the inmate, "Put your hands behind your back," or anything like that?

Sloan
A. Yes, sir.

Gjendem
Q. Who did that?

Sloan
A. I'm sorry, during the altercation?

Gjendem
Q. During the altercation, or even before.

Sloan
A. Before, no. During the altercation, yes.

Gjendem

Q. Okay, and I'm talking about when [redacted] and Kluth first got into the fight.

Sloan
A. No, sir.

Gjendem
Q. Nothing. Did you see what started the fight?

Sloan
A. No, sir.

Gjendem
Q. The only thing you saw was, that next thing you know, you saw was that [redacted] had Kluth.

Sloan
A. That's correct.

Gjendem
Q. Okay, prior to [redacted] and Kluth going to the floor, did you ever hear Kluth ever yell anything to the inmate, hey, knock it off, stop it, or anything like that?

Sloan
A. No, sir, I did not.

Gjendem
Q. After they went to the floor--

Nemeth
Q. Let's keep going, okay, Okay, remember what you needed to repeat from your last answer?

Sloan
A. Could you restate the question again, please?

Nemeth
Q. Okay, what I said is, did you personally hand in this supplemental report to somebody for approval?

Sloan
A. Yes, sir.

Nemeth
Q. And who was that?

Sloan
A. That was, I believe it was Sergeant Mosely, and also it was looked over by Sergeant Duncan.

Nemeth
Q. Okay, and did they sign it off or approve it there in your presence?

Sloan
A. I don't think so, sir. It had been, it had been fairly late when we wrote these, we were told to hold off on writing anything.

Schwab
A. For what reason?

Sloan
A. They were, what they, what they had told us was he had a laceration over his eye. This is Sergeant Duncan, I'm sorry. I have to verify. This is Sergeant Duncan speaking.

Nemeth
Q. Okay.

Sloan
A. "Let me get a hold of Internal Affairs, don't write anything just yet." We said, "Okay." Pretty much went on to doing what we were doing as our duties, mine being watch deputy, and everybody else in their prowl.

Nemeth
Q. Uh-huh.

Sloan
A. I know Deputy Kluth was then sent to White Memorial at this time, to get his elbows, elbow blown up like a balloon at the time.

Nemeth
Q. You motioned to your left elbow, do you remember it being his left elbow?

Sloan
A. No, I do not. No, I do not.

Schwab
A. You're left handed, right--

Sloan
A. Yes, I am.

Schwab
A. --so a lot of the (inaudible).

Sloan
A. Exactly, I am, I eat with my left, and I throw with my right, so, you're gonna see a--

Nemeth
Q. Switch hitter?

Sloan
A. Yes.

Nemeth
Q. Alright.

Sloan
A. We were told to hold off so we'd gone back to our normal, basic duties, and that was about it, then we, we were informed that Internal Affairs was not going to roll out. We were informed, Sergeant Duncan stated that, "You guys did an outstanding job." I told them that everything looks good, and, "Go ahead and write your force packages." And, we all, you know, we asked, "Okay, what would you like written?" Okay, Sloan, [redacted], [redacted], I take it, I was not in presence there, but I take it they asked, "What would you like written?"

Nemeth
Q. Well, just tell us what you know.

Schwab
A. Yeah, just what you know.

Sloan
A. Okay, what I know is I was told to write a supplemental report.

Nemeth
Q. Okay. Now, were you told to leave anything out of the supplemental report?

Sloan
A. No, sir.

Nemeth
Q. Were you told the supplemental report, and is it your understanding, that you're supposed to include the details regarding the use of force of the incident that you're writing about?

Sloan
A. Regarding my use of force and my use of force only.

Nemeth
Q. Okay. So, did you intentionally leave out the fact that Deputy Romero was there?

Sloan

A. No, sir.

Nemeth
Q. Is that included in your supplemental report here in front of you today?

Sloan
A. No, it's not.

Nemeth
Q. And why not?

Sloan
A. 'Cause from my understanding, and what I was told, to do that night, was write down exactly what had happened with me, and that was all.

Nemeth
Q. Okay.

Sloan
A. That was it.

Nemeth
Q. Well, there was some exchange between you and he, in fact--

Schwab
A. You and who?

Nemeth
Q. You and Romero. There was an exchange, you, you requested Romero to relieve so you could get involved, because were it not for Romero leaving you, the appearance is, and, in fact, the appearance from all these reports is, that's there's nobody in the control booth in module 4400, correct?

Schwab
A. Well, no, no--

Sloan
A. No.

Schwab
A. You can't state--

Sloan
A. I can't, I can't state--

Schwab
A. (Inaudible) don't agree with that, that's just his interpretation.

Nemeth
Q. Okay, does it say in here, anywhere, that Romero came in and relieved module 4400 control booth?

Sloan
A. No, it does not.

Nemeth
Q. Okay, and because that doesn't have anything to do with the force, did you decide that wasn't supposed to be included in your report, then?

Sloan
A. If I was writing a SHAD 49--

Nemeth
Q. Which is what this is, by the way, it's a supplemental report to a SHAD 49.

Sloan
A. Okay, I am under the impression that this is a force package narrative. Now, if there is something different, I was either taught wrong, or I am unaware, I am not--

Nemeth
Q. Let me just explain something to you--

Sloan
A. --I am not--

Nemeth
Q. --okay?

Sloan
A. --okay.

Nemeth
Q. This C up here stands for charge, and when you write a 243 CPC, assault on a peace officer, what you're doing is you're completing a crime report, okay?

Sloan
A. Okay.

Nemeth
Q. You're filling out a police report, which is supplemental to a first report, that's what you're doing when you did this, okay.

You telling me you didn't understand that when you filled this form out?

Sloan
A. No, I did not sir.

Nemeth
Q. Okay, you didn't understand this was a police report, is that what you're saying?

Sloan
A. No, that's not what I'm saying--

Schwab
A. Good.

Nemeth
Q. You didn't understand what--

Schwab
A. Don't, don't let him put words in your mouth.

Sloan
A. That's--

Nemeth
Q. I don't want to put words in your mouth, go ahead.

Schwab
A. Did you under, did you believe that you were complying with the sergeant's instructions when you completed this report?

Sloan
A. Yes, I was.

Nemeth
Q. Okay, let me ask you this. Did you understand that this a report that's supposed to contain all the details regarding and surrounding the facts of this use of force, did you understand?

Sloan
A. No, I was not.

Nemeth
Q. You was not, you were not aware of that?

Sloan
A. No, I was not.

Nemeth
Q. Okay.

Sloan
A. In fact, not only was I not aware of it, I was told specifically that this is to contain the force that was used by myself, and that was it. There, there was--

Schwab
A. So, not to report anybody else's force, either.

Sloan
A. Not, not to report anybody else's force. If they're, if you were helped out by somebody, then fine. If you were, if you were assisted in, let's say, a handcuff, then fine.

Nemeth
Q. Okay. Well, we're not talking about reporting anybody else's force, we're talking about how you were able to even participate in the event, that's what we're talking about, that is the actually--

Schwab
A. Well, no, Sergeant, you're arguing with him now. He told you exactly why he wrote the report the way he did. You are arguing with him now, are you gonna try to argue with what his understanding was, 'cause he's not change that, just because you're arguing with him about that. If you want to order him to change his response, he will but you are arguing with him. He told you his best perception. If you disagree, you can make your own conclusions in your report. He told you exactly what his state of mind was, and why he wrote the report the way he did.

Nemeth
Q. Well, Deputy Sloan, what I heard you say is you're not aware that this was a crime report.

Sloan
A. That's not what I said, sir.

Nemeth
Q. What did you say?

Sloan
A. I stated that this, I was aware that what I understood that this is a force package, this is a narrative from a force package and the only thing written down in the force package being told by my supervisor was that I am supposed to write down what I did as far as--

(END OF TAPE 2 SIDE B)

Nemeth

Q. Okay, you left off that you'd like to add that--

Sloan
A. I would like to add that, that is not the first time that I have been told that that is how a force package is supposed to be written.

Nemeth
Q. Okay.

Sloan
A. I am under the impression that a 49, a standard (inaudible) 49, whereas you are the bookman, per se, or you are the deputy writing, or the handling deputy--

Nemeth
Q. Mm-hum.

Sloan
A. --is completely different, from what a force package is.

Nemeth
Q. Okay.

Schwab
A. And we're gonna take a break right now, we've been in here for two hours, no breaks whatsoever, apparently you're not planning on taking any kind of break--

Nemeth
Q. Well, we're planning--

Schwab
A. We're (inaudible).

Nemeth
A. --on wrapping it up, did you need to go to the bathroom or anything?

Schwab
A. Okay, is this gonna be five minutes, then, or--

Nemeth
Q. Well, I'm just as-, do you need to go the bathroom?

Schwab
A. Okay, I need to use the restroom, but I will wait for five minutes, if that's what your representation is.

Nemeth

Q. Okay, will you wait for five minutes, and then we'll take a break, 'cause Sergeant Gjendem's got a couple questions he needs to ask.

Schwab
A. Okay now, if we're no, we're not gonna wait then. I thought you meant--

Nemeth
Q. Well--

Schwab
A. --it'd be over in five minutes--

Nemeth
Q. Let me finish my line of questioning.

Schwab
A. No, I need to go to the restroom, Sergeant.

Nemeth
Q. Well, a minute ago, you said you can wait five minutes. (Laughs)

Schwab
A. It's not an option, it's not an option, okay?

Nemeth
Q. (Inaudible).

Schwab
A. You're gonna continue with it, I thought you represented that you were gonna be done with the interview in five minutes, obviously that was a misrepresentation.

Nemeth
Q. No. It wasn't a misrepresentation.

Schwab
A. We're gonna take a ten minute break.

Nemeth
Q. Let me end the tape, (inaudible) Miss Schwab has to go to the restroom, and take a break, the time is--

Schwab
A. Yes--

Nemeth
Q. --1230 hours.

Schwab
A. --yes, and we all need to take--

Nemeth
Q. Okay, we're back on the record after taking a short break, time is 1240 hours, where I'm concluding a couple questions that I have for Deputy Sloan. Deputy Sloan, I guess, one thing I'm just trying to get straight in my mind is, were this a force packet report like you're talking about, a were it a crime report, would it make any difference, in your, in your mind, no, no matter which of those two it was as to how you would write it, what you would write?

Sloan
A. Yes, sir.

Nemeth
Q. It would make a difference?

Sloan
A. Yes, sir, it would.

Nemeth
Q. Tell me the difference it would make.

Sloan
A. If I were the handling deputy--

Nemeth
Q. No, no, no, not handling deputy, I'm just talking about the same role you are now.

Sloan
A. Okay.

Nemeth
Q. What would you have written differently?

Sloan
A. No, then, okay, then, then no, it would not.

Nemeth
Q. Okay. Okay, now you're saying when, if I understand you correctly, what you're saying is when you write a report regarding force, you're, you understand you're supposed to specifically identify what you did in terms of using force, is that correct?

Sloan
A. That's correct, sir.

Nemeth
Q. Okay. Do you understand it's your duty to identify other persons who were present also in the area when the force was occurring in that report?

Sloan
A. No, I am not.

Nemeth
Q. You're not aware of that? You're not aware of that, as being part of the policy?

Sloan
A. As far as being, filling out the force package?

Nemeth
Q. No.

Schwab
A. I think what's important is what he was aware of when he wrote this.

Nemeth
Q. Right.

Schwab
A. I mean you can talk to him about it generally, but I think (inaudible). I think you've already clarified that.

Nemeth
Q. Okay. All we wanna do is, you know, is, is ask you at the time you wrote this, did you understand it was your duty, and part of preparing this report (inaudible) incumbent on you to identify not only the acts you personally did, using force, but who else was present there at the event, did you--

Sloan
A. I, I am now aware of that.

Nemeth
Q. Okay, at the time, the question is, at the time you prepared this, were you aware of that?

Sloan
A. No, I was not.

Nemeth
Q. Was not aware of that, okay. And you're now aware that, you are now aware that that is part of the policy of force reporting?

Sloan

A. Yes, I am.

Schwab
A. Because Sergeant Nemeth told you that.

Sloan
A. Because Sergeant, because, that's correct, because you have told me that.

Nemeth
Q. Just now.

Sloan
A. Just now.

Nemeth
Q. You never knew that before?

Sloan
A. No, sir, what I have been told before, as far as the force packages, and this has probably been every supervisor that I have worked, worked with they have told me to state what you did, and what you did only.

Nemeth
Q. Okay, and is it because of that past instructions that you received, is that why you didn't write down that Deputy Romero relieved you, because you didn't feel that, (inaudible) was part of that instruction, dealing with just what you did.

Sloan
A. That's correct.

Nemeth
Q. Okay. All right, I just, I need to point out one final thing, and I'm gonna turn it over to Sergeant Gjendem, okay? Something you need to know, and if you didn't know it then, you need to know it now, okay? You're responsible for knowing what's in that manual of policy and procedures, okay?

Sloan
A. Okay.

Nemeth
Q. You need to know what the force policy says, and you need to know that, you know, the department's put on some training and things of that nature, that I have your training records that you know, that you've been to, and it's incumbent on you to know what the policy requires of you, and if you're not certain, you need to ask a supervisor, okay, do you understand that?

Sloan
A. Yes, I do.

Nemeth
Q. For future reference, okay then?

Sloan
A. Yes, I do.

Nemeth
Q. All right. Sergeant Gjendem?

Gjendem
Q. Yes. You said that you didn't see any other inmates or trustees that were out in the areas around the phone, the laundry room, or over by the Able Charley rows, correct?

Sloan
A. That's correct, sir.

Gjendem
Q. Okay, could there have been some people standing here that you didn't notice?

Sloan
A. There very well could have been.

Gjendem
Q. Okay. Getting back to this announcement, do you know what the purpose of putting an announcement out over for the control booth deputy to call the booth and tell them the booth deputy what's going in your module?

Sloan
A. Do I, I'm sorry, I don't, I do not--

Gjendem
Q. Do you know what the purpose is?

Sloan
A. During?

Gjendem
Q. When there's a fight going on inside between a deputy and an inmate, or a couple of inmates.

Sloan
A. Okay.

Gjendem

Q. Do you know what the purpose of the phone call to the control booth would be?

Sloan
A. Yeah, to make sure that you can get some adequate deputies down there to handle--

Gjendem
Q. Okay.

Sloan
A. --whatever situation it would be.

Gjendem
Q. Or a supervisor.

Sloan
A. That would not, that would not come to my mind, my, my first instinct in alerting somebody of altercation going on, was to get adequate deputies there, in order to keep it controlled and not get out of control, or ordering a supervisor immediately during an altercation has never once been told me that is policy, and I would never even think of something like that. It would be the closest people who are able to get to that location, in order to gain control of it.

Gjendem
Q. And, you wouldn't think one of the reasons for a P.A. announcement would be to alert a supervisor that there is something going on, on, inside one of his assigned modules?

Sloan
A. No, sir.

Gjendem
Q. When you went down to tell Sergeant Duncan what had happened up there inside 4400, did you go down alone, or did you go down with other deputies?

Sloan
A. Went down with myself, Deputy Kluth, Deputy [redacted], and Deputy [redacted].

Gjendem
Q. Okay. Did you tell Sergeant Duncan what happened?

Sloan
A. Yes, sir.

Gjendem
Q. What you did?

Sloan
A. Yes, sir.

Gjendem
Q. Were you present when Deputy Kluth told Sergeant Duncan?

Sloan
A. Yes, sir.

Gjendem
Q. And were you present when Deputy [redacted] told him what happened?

Sloan
A. Yes, sir.

Gjendem
Q. And were you present when Deputy [redacted] told Sergeant Duncan what had happened up there inside the module?

Sloan
A. Yes, sir.

Gjendem
Q. Okay. What you told Sergeant Duncan had happened up in that module, is everything documented inside your, inside your report?

Sloan
A. Yes, sir.

Gjendem
Q. Did you document anything in there that you had witnessed any other deputies use force in there?

Sloan
A. In here?

Gjendem
Q. Yes.

Sloan
A. No, I did not.

Gjendem
Q. Okay. When you told Sergeant Duncan what you had done up in the module, did you also tell him what you had seen other deputies do?

Sloan
A. No, I did not.

Gjendem
Q. Did you tell him what the inmate had been doing prior to the incident?

Sloan
A. Yes, that was part of telling him the altercation and what had happened upstairs.

Schwab
A. And, and again I have a continuing infraction. It's just hard for me to fathom that you gentlemen have not, as part of the investigative file, interviewed Sergeant Duncan. And so we renew our objection, that we've not been provided with his version of what the deputies' statements were.

Gjendem
Q. It's noted for the record, we haven't talked, talked to Sergeant Duncan yet.

Nemeth
Q. Let me, let me address this while we're on this topic right now, okay. We haven't spoken to Sergeant Duncan but we have obtained two memorandums from him, that reference your conversation that you and the other deputies had with him, which we've provided to your attorney. We have interviewed Sergeant Van Mosely, and for the record, we will not be providing you or your representative, with a copy of Sergeant Mosely's statements, because it, it, his statement in his interview is that he relies 100 percent on his memorandum. That's, that's all there, that's all that's relevant in that statement as to what the deputies told him, so there won't be any conflict, it's not as though we're holding something back, and I'm gonna spring it on you, or something like that, not at all the case.

Schwab
A. Does he relate, again, though, what the deputies told him?

Nemeth
Q. No, he, he says, actually what, what his statement is is that all I, all I remember about the incident is what's contained in the memorandum, which you, which you possess in this package here, so, to, to just handle that. There's nothing that we're holding back to drop on you, or it's not like we, you know, we've got something that you told us that you forgot about that we're gonna to spring on you, or anything like that.

Gjendem

Q. (Coughs) I'm sorry.

Unknown
A. Okay.

Gjendem
Q. Are you good friends with Kluth?

Sloan
A. Yes, I am.

Gjendem
Q. Were you in the academy class together?

Sloan
A. No, sir.

Gjendem
Q. Different academy classes?

Sloan
A. Yes, sir.

Gjendem
Q. You guys work the kitchen together at one time?

Sloan
A. That's correct.

Gjendem
Q. Okay, and this was prior to that incident, correct?

Sloan
A. Yes.

Gjendem
Q. Have you been up to his module in the past, prior to this incident, had you gone up to his module, and met with him to go to lunch with him?

Sloan
A. Most definitely.

Gjendem
Q. Okay. The blood that was on the, on the floor in there, who cleaned the blood up?

Sloan

A. I don't have any idea, sir, it was clean when I went back up there to talk to the trustees.

Gjendem
Q. When you went back up to talk to the trustees. Why would you talk to trustees?

Sloan
A. 'Cause I was told by Sergeant Duncan to go talk with the trustees up in the module, and, which I did so.

Gjendem
Q. Who did you talk to?

Sloan
A. As far as names?

Gjendem
Q. Yes.

Sloan
A. Sir, I don't have names, I was, if I remember correctly, I remember bringing, talking to, there were three trustees. I talked to each one of them individual. They stated to me that during the time that they were asleep, inside their cell, they had come out after the fact, and didn't see anything. I reported that to Sergeant Duncan, and as accurately as I can remember, sir, I asked, he was asked, I believe by myself, should I get any other names or anything, and I was told did they, well what happened, did they see anything? I said, no, sir, they, they said that they were asleep in their bunk. And he says, okay, fine, then don't worry about it.

Gjendem
Q. Don't worry about what? Getting their names?

Sloan
A. Don't, don't worry about getting names or anything like that. I got, I didn't get any.

Gjendem
Q. Or taking a statement from them?

Sloan
A. That's correct.

Gjendem
Q. How long after the, the fight was concluded in here, and the hobble was put on Inmate [redacted], did the first supervisor arrive on, arrive on scene?

Sloan
A. I, there's no way I could answer that, sir. I don't have any idea.

Gjendem
Q. Did you ever see a supervisor?

Sloan
A. Yes, sir.

Gjendem
Q. Who did you see?

Sloan
A. Saw Sergeant Mosely, and Senior Jackson.

Gjendem
Q. Okay, and--

Sloan
A. Also, Gene Turpin, who just happened to be the person who brought up the gurney. He is a, he was a senior with the, with the hospital on early mornings.

Gjendem
Q. Okay. You don't know who got, you say Senior Jackson got there first?

Sloan
A. I don't have any idea who got there first.

Gjendem
Q. Okay, and you don't know when Senior Jackson got there in relation to the end of the fight?

Sloan
A. No, sir.

Gjendem
Q. And, five minutes?

Sloan
A. I, I honestly don't know. I don't know if it was after the fact as far as us, him being hog tied, and we stepped back to gather our breath, I, I don't know what time he came there. I do know he was present there when Sergeant Mosely was there.

Gjendem
Q. Okay, and did Sergeant Duncan ever come up there?

Sloan
A. No, sir.

Gjendem
Q. While you were there, he never came up there.

Sloan
A. Ex-, exactly.

Gjendem
Q. Okay, so you told Sergeant Duncan, you told Sergeant Mosely what had happened.

Sloan
A. Yes, sir.

Gjendem
Q. And then, did you at sometime, did you leave, along with the other deputies, Kluth and [redacted]?

Sloan
A. [redacted]?

Gjendem
Q. And [redacted].

Sloan
A. Yes, sir.

Gjendem
Q. And where did you go?

Sloan
A. Went down to the gymnasium.

Gjendem
Q. Why did you go down there?

Sloan
A. That's where Sergeant Duncan was working out at the time.

Gjendem
Q. Who told you to go down there?

Sloan
A. Sergeant Mosely.

Gjendem
Q. Okay, and you went to the gym, and did you go someplace after that, and, and meet again with Sergeant Duncan?

Sloan
A. No, sir, I remember him being back into the watch deputy's office, or I'm sorry, watch commander's office, being right next to where I was working at the time, so, yes, I had seen him then.

Gjendem
Q. Okay. Did he ask you any more questions about the incident?

Sloan
A. Not that I can remember, sir. We may have been talking to him, it may have been when I was, while I was writing my force package, but--

Gjendem
Q. Uh-huh.

Sloan
A. --not that I can remember anything relating to it.

Gjendem
Q. Okay. And you've had force training both at the Central jail and their mandated training, and also in your academy class, right?

Sloan
A. I have had it in my academy class, yes. I'm trying to think of an S, STC class. STC being what we do as far as everything from criminal law to your force training. I went through a class that I don't remember if it was force training, or if it had to do with proc-, procedures like in a riot, riot situation. I can't remember if that was the force class, or if that was a riot situation class, or what it was, I don't remember being in a for-, or, I'm sorry, yes, I do remember being in a force class, because I believe Sergeant Mosely, who was then a senior at the time, was giving a class. I, I apologize. I, I think I was in a force class.

Gjendem
Q. Okay. And they talked about the reporting policy, what you should report, what you shouldn't report, stuff like that?

Sloan
A. I'm sure they did.

Gjendem
Q. Okay.

Schwab
A. Well, do you have a specific recollection?

Sloan
A. I don't have a specific recollection, no, I don't.

Gjendem
Q. You said there was an inmate back here where you marked an X on the diagram of module 4400 on number two, roman numeral two, what happened to this inmate that was inside the showers?

Sloan
A. I don't have any idea, sir.

Gjendem
Q. Did you ever go back and seek him out--

Sloan
A. No, I--

Gjendem
Q. --as being a poss--

Sloan
A. --I'm sorry, I apologize.

Gjendem
Q. --as being a possible witness to this?

Sloan
A. No, I did not.

Gjendem
Q. Why?

Sloan
A. Never occurred to me. It just never occurred to me, I went up to talk to the trustees, and that, those were the only people that I was, that I had talked to.

Gjendem
Q. The sergeant had asked you to look for some witnesses up there.

Sloan
A. He told, I'm, I'm sorry, go ahead.

Gjendem
Q. Look for some trustees.

Schwab
A. Well, correct him if he's, you know, right about that.

Sloan
A. No, I was told to go talk to the trustees.

Gjendem

Q. Okay. Was this guy a trustee?

Sloan
A. I don't have any idea, the three trustees that I talked to, if I remember correctly,--

(Coughing)

Sloan
A. --were minorities, either two of them being black, one Hispanic, two Hispanic, I, I remember they were minorities, and if I remember correctly, this was a white guy.

Gjendem
Q. He could have been a trustee?

Sloan
A. He could have been, I didn't have the slightest idea.

Schwab
A. But, you didn't know.

Sloan
A. No, I don't know, I don't know.

Schwab
A. Okay, don't speculate, just (inaudible).

Gjendem
Q. Once again, you didn't talk to him?

Sloan
A. No, sir.

Gjendem
Q. Did anybody at a later time tell you that there were some witnesses to this force incident?

Sloan
A. I had heard that a inmate was taken out of 4400 and let's not be ignorant about something, when, when internal affairs is at Central Jail, then everybody knows that they are there, and I had heard that a inmate was talked to, out of 4400, and that was the last I had ever heard.

Gjendem
Q. And, what had you heard that inmate said?

Sloan
A. I hadn't.

Gjendem
Q. You didn't hear?

Sloan
A. No, I have no idea. I wasn't really concerned.

Gjendem
Q. One inmate?

Sloan
A. That's all I heard.

Gjendem
Q. John?

Nemeth
Q. Okay, do you know how Deputy Romero's name even surfaced in this whole event?

Sloan
A. I don't, I don't think I understand your question, sir.

Nemeth
Q. Okay, do you know, in other words, how it came to be known by internal affairs and station administration ultimately, that Deputy Romero was the person who relieved you in module 4400 security booth?

Sloan
A. No, no I have no idea.

Nemeth
Q. Okay. Aside from your own supplemental report, have you read other reports in this case? Have you read the other reports, the crime report that Kluth wrote and the other supps written by [redacted] and [redacted]?

Sloan
A. Yes, I have.

Nemeth
Q. Okay. And, is there any mention of Romero in any of those reports?

Schwab
A. We'll have to go through and check, Sergeant.

Sloan
A. I don't, I, I can't tell you right now.

Nemeth

Q. Okay. Take your time, you can review the report if you want.

Schwab
A. Well, okay, he doesn't know, so why don't you tell us what the relevance of that question is, assuming that you got the right answer.

Nemeth
Q. Well, these reports, there's no reflection of Romero's name anywhere, you know, so I, I guess what I'm asking is, no, you don't know how Romero's name came up then, at all, 'cause it's not in the reports, is that right?

Sloan
A. I have no idea, sir.

Nemeth
Q. Okay. When you went down, you said you went in a, in group, the four of you together, yourself, Kloan, Sloan, yourself, Sloan, Kluth, [redacted] and [redacted] went, the four of you together to see the watch sergeant, or the watch commander, is that right?

Sloan
A. If I, if my memory is correct, yes.

Nemeth
Q. Okay, and that was because you were reporting force, correct?

Sloan
A. That's correct.

Nemeth
Q. Reporting using force, right?

Sloan
A. Yes, sir.

Nemeth
Q. Okay, as well as witnessing force, right? 'Cause you were--

Sloan
A. Well, no, I'm, I, I was told to go down there and speak about the altercation that had happened.

Nemeth
Q. Okay. What's your understanding of the sheriff's department's policy regarding, not personally using force, but witnessing someone else use force?

Sloan
A. As, as far as writing reports or, I'm sor--

Schwab
A. No.

Sloan
A. I'm sorry, I just don't understand.

Nemeth
Q. Well what's--?

Schwab
A. That's not a fair question, Sergeant, why don't you ask him if he did not report other people's force, why he didn't do that?

Nemeth
Q. Okay, well, let, let me ask him this question, because like I, you do have to be aware of what the policy is under the (inaudible)--

Schwab
A. Okay, but you're telling him that now. This is not a counselling session. This is just an interview.

Nemeth
Q. That's exactly right.

Schwab
A. Okay, you just ask him the questions, there's no reason for you to have him recite a policy that is not in front of us, and that we can't look at. He told you why he wrote the report the way he did. You can argue with him about that, but he still wrote it that way for a particular reason, and he told you why. Seems to me like you've got a problem with the sergeants in this case, not with the deputies.

Nemeth
Q. Okay. Let me say this to you, Deputy Sloan, okay? Do you feel that I'm arguing with you?

Sloan
A. On this ca-, on this particular case?

Nemeth
Q. Well--

Sloan
A. As the point, I'm sorry, the point, yes I do.

Nemeth
Q. Okay, let, let me ask you this. The question is, this is a question, I'm not arguing you, with you, okay? What do you

understand the sheriff's policy regarding reporting witnessing the use of force?

Sloan
A. From what I understand, what you are told by your supervisor, is basically how you, what you are going to write. If your supervisor says, okay, I want you to write as a witness, then you write as a witness. If he says I think, or, okay, Sloan you told me that you put a thumb into the guy's chin, okay, you are now writing as a person who's directly involved.

Nemeth
Q. Okay. What, I guess what I'm saying is what do you understand as, not being a person who touches, or uses any force, or even touches the inmate, if you are a person who witnesses force, what do you understand is your responsibility with regard to reporting?

Sloan
A. I'm not under, I am not aware that I'm supposed to write anything.

Nemeth
Q. Does that mean you're, it's your impression now, it's your understanding as we sit here today, that you are not required to report to a supervisor if you witness another deputy use force?

Sloan
A. That's basically, yes, sir, what I'm, what I'm saying.

Nemeth
Q. Okay, okay, all right. But, you do understand that when you use force you do have to report that?

Sloan
A. Yes, sir.

Nemeth
Q. Is that right?

Schwab
A. And did you do that in this case?

Sloan
A. Yes, I did.

Nemeth
Q. Okay. Now, is there, when the four of you went down, is there any reason why Deputy Romero wasn't invited to join the four of you

when you were reporting to the sergeants what had happened in the module?

Sloan
A. I don't have any idea why he wasn't asked to. The only thing I can say on that is he was not directly involved, and therefore, what's he going to report?

Nemeth
Q. Okay, all right. When you said Sergeant Mosely was a senior, and conducted a--

Schwab
A. No, he didn't say he was a senior.

Nemeth
Q. Well, if you let me finish the question, you'll know the point I'm referencing. You said at some point, Sergeant Mosely was a senior who instructed you in jail, while he was working at the jail and discussing force training with you.

Sloan
A. The STC class?

Nemeth
Q. Right.

Sloan
A. Okay.

Nemeth
Q. Is that an accurate statement, that Sergeant Mosely was a senior at that point?

Sloan
A. Yes, sir.

Nemeth
Q. Okay, and he instructed you with regard to force policy, is that correct?

Sloan
A. I can't, I, I don't know what it was that we entailed. I can only make an accurate statement that if it was a force class, then whatever the force policy being at that time, that is what he went through, but I cannot tell you verbatim, and I, I can't tell you what I remember about the class.

Nemeth
Q. Okay.

Sloan
A. I believe it was a couple of years ago, and I just don't remember.

Nemeth
Q. Okay. All right. Do you remember receiving any type of recurrent briefing training regarding use of force?

Sloan
A. No, I don't.

Nemeth
Q. All right. The class with Sergeant Mosely, do you remember that, what year that was or what month, or date?

Sloan
A. No, I don't.

Nemeth
Q. Okay. Now is it possible that you were received recurrent briefing training regarding the use of force, as recent, or as close to the incident as July 14th of 1994? Is that possible?

Schwab
A. Well, if you have a record, I mean, you can ask him if he remembers--

Nemeth
Q. Well, yeah. Some--

Schwab
A. --depending on that day.

Nemeth
Q. But--

Schwab
A. Do you recall specifically attending that day?

Sloan
A. I don't. I don't recall when I was [redacted]. I don't recall the three months. If it was during the three months that I was [redacted], obviously, no, there's no way that I received that. When you, that's all I can tell you on that.

Nemeth

Q. Okay. All right. When Sergeant Duncan told you to go back and you said he specifically said, talk to the trustees in module 4400, right?

Sloan
A. Yes sir.

Nemeth
Q. What, what was your understanding of what he was asking you to do?

Sloan
A. Go up and talk to trustees and see if they had seen anything.

Nemeth
Q. So did you, based on what you just said, see if they had seen anything, did you think that it was your mission to find any possible or potential witnesses to the event?

Sloan
A. No sir.

Nemeth
Q. You didn't think that's what he was telling you to do?

Sloan
A. No sir.

Nemeth
Q. Okay. Did you record the names of the trustees anywhere?

Sloan
A. No. I did not.

Nemeth
Q. Are they in your report?

Sloan
A. No sir.

Nemeth
Q. Did you write 'em in your notebook?

Sloan
A. I don't believe I did sir.

Nemeth
Q. Okay. Do you keep a deputy field notebook?

Sloan
A. I carry one with me but it's not common practice for me to write anything in it.

Nemeth
Q. Okay. As you sit here to, today, right now, is there anything in that ma-, in that field notebook that regarding this incident?

Sloan
A. No there's not, sir.

Nemeth
Q. Okay. Do you know that for certain?

Sloan
A. I know it for certain only to the point that is not standard for me to write anything in there.

Nemeth
Q. Okay. So did you record the names of the trustees that you did talk to that said they were asleep in their bunk and didn't see anything?

Sloan
A. No I did not.

Nemeth
Q. Okay. So, because why?

Sloan
A. Because, in my opinion, the statement he give me was a statement that anybody in any cell could have given me. And even though they are the trustees, it, it was like asking somebody who was walking down the hallway. Hey, did you see anything here? No. The door was closed. I didn't see anything. Well, I'm certainly not going to put that person down as a witness or even being in the area.

Nemeth
Q. Uh-huh.

Sloan
A. That, that is the way I perceived it. Now, this is after what the (inaudible), after the statements the trustees have given to me.

Nemeth
Q. Okay. All right. The final thing is, Mr. [redacted] sustained an injury to his scrotum. Okay?

Sloan
A. Okay.

Nemeth
Q. The one that you told me that you heard about he fractured, his testicles was fractured?

Sloan
A. Okay.

Nemeth
Q. Is that right? Is that what you had in mind?

Sloan
A. I remember early what I stated was ruptured.

Schwab
A. We don't--

Nemeth
Q. Ruptured. Ruptured.

Schwab
A. We don't know what--

Sloan
A. That's what I was saying.

Schwab
A. We don't have all the medical reports.

Nemeth
Q. Okay. Right, right. Based on that injury, I'm just trying to ask you, is there anything that you saw anybody do in that module that could have caused that injury to, to this inmate?

Sloan
A. No sir.

Nemeth
Q. Nothing at all?

Sloan
A. Nothing at all.

Nemeth
Q. Okay. All right, that's all I have. That's all. Okay,--

Schwab
A. Believe it or not, I actually have a question.

Nemeth
Q. Okay.

Schwab
A. As much as I (inaudible). I, I just want to clarify one point.

Nemeth
Q. Please do.

Schwab
A. When you said that you were straddling the inmate to hold onto his ankles before he was hobbled--

Sloan
A. Uh-huh.

Schwab
A. Where were your legs?

Sloan
A. My left knee was on the concrete with his leg going between my groin area. My knee was between his groin area on the concrete.

Nemeth
Q. Your right knee? 'Cause you motioned to your right knee.

Sloan
A. That's correct. That's correct.

Schwab
A. I just wanted to clarify that.

Nemeth
Q. Okay. Le-, le-, that's a good point. Let's just for, just to get it really clear, let me, let me do this on the back of your, of this. And while we're at it, do me a favor and write phone right here so we remember what that's supposed to indicate. Phone and then put a circle with your S and show that that's where you were on the phone looking in this direction where you indicated with the arrow, there. And the last thing just to get this point clear.

Gjendem
Q. What is that you have there?

Sloan
A. That's a Jeep.

Nemeth
Q. Okay.

Sloan
A. I'm not here. I'm over the phone.

Nemeth
Q. Um-huh. Oh! Okay. (Inaudible)

Sloan
A. Kind of leaning, looking that way.

Nemeth
Q. Put GS cause we used S for the other one. (Laughs)

Sloan
A. Okay. (Inaudible) I'm sorry.

Nemeth
Q. Okay. All right let's pretend this is the inmate, here. Okay? And the bars and the shower are here. Is that an accurate, kinda accurate representation?

Sloan
A. Yes sir.

Nemeth
Q. All right, tell me now--

Sloan
A. With the exception that he was being handcuffed at this point.

Nemeth
Q. Okay. So he's being handcuffed, right?

Sloan
A. That's correct.

Nemeth
Q. There's my handcuffs. Okay. Show us just like your rep is asking to be clear where you were. Where, maybe this is not accurate with his legs. Maybe it was narrower here. However you want to, go ahead and just give us a brief sketch there.

Sloan
A. Because of the way I had his ankles, I'd like to verify--

Nemeth
Q. Right.

Sloan
A. --that his, his legs were closed more.

Nemeth
Q. Were closed more. Okay.

Sloan
A. Boy, I'm a terrible artist.

Nemeth
Q. And you don't have to be an artist?

Sloan
A. Yes.

Nemeth
Q. You could just put my right knee was here, or whatever?

Sloan
A. Okay. This is, this. This being my left knee with my foot.

Nemeth
Q. Right there?

Sloan
A. Uh-huh.

Nemeth
Q. So where's the knee? Right here, or somewhere else?

Sloan
A. No. This is the knee right here.

Nemeth
Q. Oh, okay. That's the knee--

Sloan
A. That's the knee right there.

Nemeth
Q. Okay.

Sloan
A. This is my foot pointing down onto the concrete.

Nemeth
Q. All right. Okay.

Sloan
A. Where my knee is. His leg is going through my groin.

Nemeth
Q. Okay.

Sloan
A. I have my right knee, here.

Nemeth
Q. Is this the knee here then?

Sloan
A. Nope. This would be between my legs with his leg going between my legs, here. This being my knee right here with my foot or a section of my foot area right around the small of his back. Maybe the upper bu-, buttocks area.

Nemeth
Q. Then that would be going this way, right? Or something (inaudible)

Sloan
A. That, that would be like this, going back.

Nemeth
Q. Right. So, if we made this his knee then this would be your foot back here then, right?

Sloan
A. That's correct.

Nemeth
Q. Okay. Can I go ahead and--

Sloan
A. Sure.

Nemeth
Q. Is this accurate? I, yeah--

Sloan
A. It, it would be accurate, this way--

Nemeth
Q. --and this would be your knee, right here?

Sloan
A. No it would not.

Nemeth
Q. (Inaudible)

Sloan
A. This would be my knee.

Nemeth
Q. Oh, your knee is back here. Even closer into his groin area--

Schwab
A. His knee is right there.

Sloan
A. That's correct.

Nemeth
Q. Thats, he just said no though. It's here, is your knee, is that right?

Sloan
A. That's correct. This is my groin area, crossed with this leg going here--

Nemeth
Q. Oh, okay.

Sloan
A. --knee to concrete. This leg going down here. I said I'm a terrible artist.

Schwab
A. His knee has to be close to his groin area, I mean--

Sloan
A. Then with my knee close to his groin area. With my foot--

Nemeth
Q. Right here? Is that--?

Sloan
A. That's correct.

Nemeth
Q. That is your knee?

Sloan
A. That's correct.

Nemeth
Q. Very close?

Sloan
A. Very close.

Schwab
A. Your knee is on the cement?

Nemeth
Q. On the cement, though?

Sloan
A. That's correct.

Nemeth
Q. Okay. That's what I'm trying to get clear here. And now your torso would then come off from here? Something like this?

Sloan
A. No, sir. It would be straight up.

Nemeth
Q. Yeah. Right. Going up. All right. So this would be Sloan's groin area, right?

Sloan
A. That's correct.

Nemeth
Q. That area?

Sloan
A. That's correct. With his leg touching my groin area.

Nemeth
Q. This is the inmate's groin area, right here. Is that right?

Sloan
A. That's correct.

Nemeth
Q. So it's very close. Is there a chance you could have knelt on his testicle or something like that? I guess is what I'm asking ya.

Sloan
A. There's a, I don't have any idea. Yes, there's a possibility.

Nemeth
Q. Well, did you feel it? Did you feel a testicle under your knee or anything like that?

Sloan
A. No sir. No sir.

Nemeth
Q. 'Cause you probably would have got a response if you kneeled on a, on the inmate's testicle, right?

Schwab
A. I would think so.

Nemeth
Q. You would think so. So could you--

Sloan
A. I'd taken, I think he would have made some sort of comment. Yes.

Nemeth
Q. Okay. Did, did you get a response or a comment from the inmate?

Sloan
A. No sir.

Nemeth
Q. Okay. So then, based on that, you don't think you kneeled on his testicle?

Sloan
A. No sir.

Nemeth
Q. Okay. All right.

Schwab
A. I don't think so.

Nemeth
Q. Anything else?

Sloan
A. No sir.

Nemeth
Q. Sergeant Gjendem?

Gjendem
Q. Well, when the inmate was leaning down here on his stomach, was he yelling?

(END OF TAPE 3 SIDE A)

Gjendem
Q. When the inmate was laying here on his stomach, was he yelling anything?

Sloan

A. I'd have to say that during the whole course of this, with the exception of after we had him handcuffed and hobble restraint, the inmate never said a word during this whole thing. Very quiet. Very methodical, like he knew what he was doing. He knew he wanted to get up.

Gjendem
Q. Uh-huh.

Sloan
A. Very strong, trying to, he knew he wanted to hit somebody. And he, and when he had him the headlock, he knew what he was, he knew what he was doing when he had him in the headlock. But that was it. There was nothing said.

Gjendem
Q. Was he making any groaning? Any groans or anything like that?

Sloan
A. Fighting groans. If you can, I, I, I, if that make any sense at all. But, groans as if he were resisting.

Schwab
A. Struggling.

Sloan
A. Struggling. That (inaudible). That kind.

Nemeth
Q. Uh-huh.

Gjendem
Q. Grunts like he's exerting force or something like that?

Sloan
A. Exactly. Exactly.

Nemeth
Q. Was he grunting or groaning from any of the impact of the punches that, that [redacted] hit him with?

Sloan
A. No sir.

Nemeth
Q. How about [redacted]?

Sloan
A. No sir. He, completely, completely quiet.

Nemeth

Q. One last question that I don't believe was asked. Did you ever say to anybody, "Go ahead and get you some" and gesture to the altercation?

Sloan
A. No sir.

Nemeth
Q. Never said that?

Sloan
A. No sir.

Nemeth
Q. All right. That's all I have. Anything else Mr. Gjendem?

Gjendem
Q. No.

Nemeth
Q. Okay is there anything that you'd like to add at this time Deputy Sloan that we haven't asked you about. We've tried to slow this event down and look at, you know, all the interaction that was occurring to get to the details of it, but, if there's something that we've missed, this is your opportunity to let us know. Something you want to add at this point, you are welcome to do it.

Sloan
A. No sir. There is not.

Nemeth
Q. Okay.

Gjendem
Q. And I just want to say, I don't want you to talking to anybody, during this thing. Except for your representative. Okay?

Sloan
A. Yes sir.

Nemeth
Q. Yeah. We're just calling your attention back to the form you filled out earlier today. Okay?

Sloan
A. Okay.

Nemeth
Q. You're being expressly ordered not to discuss the facts of this case or anything we've talked about in this interview room

with anyone other than your appointed representative next to you here. Okay?

Sloan
A. Yes sir.

Nemeth
Q. All right. Thank you very much. Conclude the interview. Time is 1315 hours.

END OF INTERVIEW

ADMI[illegible]STRATIVE RIGHTS/SWORN SUB[illegible]CTS

I am **Sergeant John Nemeth** and this is **Sergeant Ernie Gjendem** of the Internal Affairs Bureau, which is commanded by Captain Norman L. Smith.

You are about to be questioned as part of an official Los Angeles County Sheriff's Department administrative investigation.

Do you have a Policy and Ethics Chapter of the Manual of Policy and Procedures? Yes [X] No [X]
Are you familiar with its contents? Yes [X] No [ ]

You are specifically reminded that Policy and Ethics Section 3-01/040.70 requires that you make truthful statements and Section 3-01/040.75 requires that you make full and complete statements.

This investigation concerns: (Explain allegations /basic reason for investigation.) **Alleged Use of Excessive Force; and Reporting the Use of Force**

If this were a criminal investigation any statements you made could be used against you in a court of law. Since this is an administrative investigation, neither your statements nor any information or evidence which is gained by such statements can be used against you in any subsequent criminal proceeding. However, these statements may be used against you in subsequent administrative actions.

You are being ordered to answer questions specifically related to the performance of your official duties and/or your conduct as related to your employment with the Department.

You have the right to remain silent, and you have the right to the presence and assistance of counsel. You are hereby notified that although you have the right to remain silent, failure to answer questions directly related to this administrative investigation may result in your discharge or other punitive action.

You have the right to have a representative of your choice, who is not involved in this investigation, present with you during your interviews. You may tape record this interview if you wish. **You are being ordered not to discuss the facts of this case or any of the issues discussed during your interview with anyone other than your designated representative or attorney in this matter.**

Initials GS

The above admonition has been explained to me and I understand its contents.

DATE: **December 08, 1995** FILE NO. **IAB 008383**

SUBJECT: (Signature) [signature] (Print) GARY P. SLOAN

INVESTIGATOR: (Signature) [signature] (Print) **John Nemeth**

LOS ANGELES COUNTY SHERIFF'S DEPARTMENT

WITNESS STATEMENTS (LAST NAMES A - E)

INTERNAL AFFAIRS BUREAU INVESTIGATIVE REPORT

I.A.B. 008383 (Book 4 of 8)

CONFIDENTIAL

I/M [redacted]
I.C.I.B. INTERVIEW 2-23-95

WITNESS INTERVIEW

CASE NUMBER 494-00023-2300-444

[redacted]

Hamilton
Q. Okay, today is February 23, 1995. It is approximately 1125 hours in the morning. I'm here at NCCF, getting ready to interview [redacted], Booking Number [redacted], he resides at [redacted]. We're here to discuss an incident that occurred at Men's Central Jail on October 27, 1994, in Module 4400. This incident involved deputy personnel and an inmate by the name of [redacted] [redacted] This case is being investigated under ICIB File Number 494-00023-2300-444. Mr. [redacted] Inmate [redacted] was housed in Module 4400 on the date in question. He was in Cell B5. Okay, Mr. [redacted] prior to coming on tape we had a chance to review this particular incident, correct?

[redacted]
A. Yes, sir.

Hamilton
Q. Okay, and you were, in fact, present in Module 4400 on October 27th, correct?

[redacted]
A. Yes.

Hamilton
Q. Okay, did you happen to see an incident between deputies and an inmate?

[redacted]
A. Yes.

Hamilton
Q. Okay, can you tell me about that from the beginning to the end, just take your time.

[redacted]
A. Yes.

Hamilton

Q. Okay, go ahead.

[redacted]

A. I was sitting on my bunk playing cards...

Hamilton

Q. ...Okay, you have to lift your head.

[redacted]

A. I was sitting on my bunk playing cards when I heard some noise, yelling and screaming, and I got up and I went and looked through the gate and I seen, out by the utility room, a couple of deputies, two or three deputies, standing around swinging and kicking. I heard a man yelling, "Ahhhh, ahhhh," and maybe once or twice the "F" word.

Hamilton

Q. When you say the "F" word, what does that mean?

[redacted]

A. The "F" word.

Hamilton

Q. Okay, go ahead.

[redacted]

A. I heard yelling and screaming from the man, the deputy standing kicking and punching. I stood there for a few seconds, and then switched places with somebody else who wanted to look.

Hamilton

Q. Anything else?

[redacted]

A. The deputy said maybe once or twice, "Shut your mouth, shut your mouth." That's basically what I heard and seen.

Hamilton

Q. Okay, let's start over from the beginning. Now, you said that you were inside this cell and you heard some noise, correct?

[redacted]
A. Yes, sir.

Hamilton
Q. Okay. You walked up to the row, your gate, which was B5, and you looked towards where?

[redacted]
A. Towards the stairwell to the sally port.

Hamilton
Q. Of what, B row?

[redacted]
A. Of B row.

Hamilton
Q. Okay, so you saw up there in the sally port area, you saw some deputies standing...

[redacted]
A. ...Yes...

Hamilton
Q. ...Correct?

[redacted]
A. Yes.

Hamilton
Q. How many deputies did you see?

[redacted]
A. Two or three.

Hamilton
Q. Two or three, and how did you know they were deputies?

[redacted]
A. By the way they were dressed.

Hamilton
Q. Which was?

[redacted]
A. Their uniform, gold and tan uniform.

Hamilton
Q. Okay, can you describe the deputies?

[redacted]
A. No.

Hamilton
Q. Were they male or female?

[redacted]
A. They were male.

Hamilton
Q. Okay.

[redacted]
A. I believe, yeah, they were male.

Hamilton
Q. Okay, were they, what was their nationality?

[redacted]
A. I couldn't tell you.

Hamilton
Q. Were they white, were they black, were they hispanic?

[redacted]
A. I have no idea.

Hamilton
Q. Did you actually see their faces, or did you see their backs...

[redacted]
A. ...I seen their backs...

Hamilton
Q. ...Or profiles? Okay, you didn't happen to see the side of their faces or anything?

[redacted]
A. No.

Hamilton
Q. Okay, how did you know they were males?

[redacted]
A. I could just look and tell.

Hamilton
Q. Okay, how?

[redacted]
A. By the way, just the way they are.

Hamilton
Q. Okay, meaning their stature or their physical build?

[redacted]
A. Just, yeah, the way they are.

Hamilton
Q. Okay. You said there was two or three?

[redacted]
A. Yeah.

Hamilton
Q. Okay, and where were they positioned again, in the sally port area, where?

[redacted]
A. By the utility room.

Hamilton
Q. Okay. You said that you saw 'em throwing punches and kicks?

[redacted]
A. Yeah.

Hamilton
Q. Did you actually see where they were throwing punches and kicks?

[redacted]
A. Nope.

Hamilton
Q. Did you see them strike anyone with those punches or kicks?

[redacted]
A. No.

Hamilton
Q. Did you see, you said you heard someone saying, ahhhh, ahhhh and the "F" word?

[redacted]
A. Yes.

Hamilton
Q. Am I to assume that the "F" word is fuck?

[redacted]
A. Yes.

Hamilton
Q. Okay. Did you see who was saying those words?

[redacted]
A. No.

Hamilton
Q. So, how do you know it was an inmate?

[redacted]
A. Well, (sigh) common sense.

Hamilton
Q. Okay, I know it's a silly question...

[redacted]
A. (laughs)

Hamilton
Q. ...But I just want to make sure that maybe the deputies were playing around versus actually beating someone, or whatever, so I

just want to make sure, we're not going to assume anything, so I have to ask these silly questions sometimes. Okay, so you didn't actually see the person that was yelling the profanities, correct?

[redacted]
A. Correct.

Hamilton
Q. Okay, did the deputies have any handcuffs out or anything?

[redacted]
A. Not that I could see.

Hamilton
Q. Did you see if the deputies had any weapons out, such as a baton or sap, or, a sap meaning a little leather, like a small billy club sap-type things, or flashlight, did you see them...

[redacted]
A. ...No.

Hamilton
Q. Alright, did you see it or you're not?

[redacted]
A. I didn't see none.

Hamilton
Q. Okay, so you did not see any, what we call, impact weapons?

[redacted]
A. Right.

Hamilton
Q. Okay. Were they wearing anything on their hands?

[redacted]
A. I couldn't tell.

Hamilton
Q. Okay, you couldn't tell or you didn't see it?

[redacted]
A. I didn't see it (inaudible).

Hamilton
Q. Okay, so, such as gloves, black gloves, regular gloves?

[redacted]
A. I couldn't see.

Hamilton
Q. Okay. You couldn't see or you don't recall?

[redacted]
A. I couldn't see.

Hamilton
Q. You couldn't see or you didn't see it?

[redacted]
A. I didn't see it.

Hamilton
Q. Okay. Okay. At any time, did you see the deputies place his, let me back up. Did you hear the deputies give this guy any instructions?

[redacted]
A. No.

Hamilton
Q. Not at any time?

[redacted]
A. No.

Hamilton
Q. Okay, not to give up, or let, let us handcuff you, roll on your stomach...

[redacted]
A. ...No...

Hamilton
Q. ...Lay down? Okay.

[redacted]
A. None.

Hamilton
Q. Alright, and did you, you said that about, you were at the gate for how long?

[redacted]
A. About 30 or 40 seconds.

Hamilton
Q. Okay, and they you backed off and another inmate took your position, correct?

[redacted]
A. Correct.

Hamilton
Q. Okay, did, at any other time did you go back up to that gate to look at the incident?

[redacted]
A. Yeah, but it was already, nobody there, it was vanished.

Hamilton
Q. Okay, so how, okay, so when you went back up there, they were already gone?

[redacted]
A. Yeah.

Hamilton
Q. So, how long did you think that, did you hear anything else, let me go to that?

[redacted]
A. Several yelling.

Hamilton
Q. Any instructions by the deputies or anything?

[redacted]

A. No, I wasn't focusing on it.

Hamilton

Q. Okay. Okay. How long did it take for you to get back up to the gate to look again?

[redacted]

A. I don't even remember.

Hamilton

Q. Five minutes? Ten minutes? Take a guess.

[redacted]

A. Ten minutes after, maybe...I don't know.

Hamilton

Q. Okay. Alright, and you said they were gone or it was just stopped?

[redacted]

A. They were gone, there was nobody right there.

Hamilton

Q. Okay. How long do you think that that scuffle lasted? From the moment that you heard it at the inception...

[redacted]

A. ...I have no idea, sir...

Hamilton

Q. ...To the end?

[redacted]

A. Ten minutes, I guess.

Hamilton

Q. Okay.

[redacted]

A. I couldn't tell.

Hamilton
Q. Okay. Did you hear anyone counting one, two, three, or, or anything like that?

[redacted]
A. Uh-uh.

Hamilton
Q. Okay. Did you hear anyone say, you're gonna die?

[redacted]
A. No.

Hamilton
Q. Okay. How far were you, how far was your cell from the sally port? In feet?

[redacted]
A. I (sigh).

Hamilton
Q. Take a guess.

[redacted]
A. I don't know, by feet.

Hamilton
Q. Was it 50 feet?

[redacted]
A. I don't know, I don't know how many 50 feet is?

Hamilton
Q. Okay. Let's, well, let's play it this way. Are you into football?

[redacted]
A. No (laughs).

Hamilton
Q. Do you understand football yards, ten yards, 20 yards? You don't know what five, ten yards are?

[redacted]
A. Nope, I don't play any football.

Hamilton
Q. Have you ever seen a football field?

[redacted]
A. Yeah.

Hamilton
Q. Okay, in high school or whatever?

[redacted]
A. Yeah.

Hamilton
Q. You know ten yards is the line, right? Five, ten yards, you have the lines? So you don't know? You can't tell me if it's... Is it...

[redacted]
A. ...About three or four of these rooms?

Hamilton
Q. Okay, so these rooms are about seven feet, probably seven to eight feet wide, okay, so you're telling me, what, about 40 feet, 50 feet maybe?

[redacted]
A. Okay, 50 feet.

Hamilton
Q. No, it's not okay, I'm just asking your opinion.

[redacted]
A. About 40, like this.

Hamilton
Q. Okay, well "this", the tape doesn't pick up "this", so when you say "this", so are you saying 30, 40?

[redacted]
A. 50 feet.

Hamilton
Q. 50 feet, okay. What was lighting conditions like? Was it light where you were at, or was it...

[redacted]
A. ...Yeah...

Hamilton
Q. ...The lights off?

[redacted]
A. Lights were on.

Hamilton
Q. The lights were on where? In your cell or on the row?

[redacted]
A. On the row.

Hamilton
Q. They were all the way on, so it was bright in there?

[redacted]
A. Yeah.

Hamilton
Q. Okay, how about up in the sally port area?

[redacted]
A. There was lights on up there too, I believe.

Hamilton
Q. Okay, are you sure the lights were on where you were at and the sally port? Or are you not sure?

[redacted]
A. I'm for sure they were on where I'm at. They, they should, I don't know if they were on up there.

Hamilton
Q. Okay. Could you clearly see the activity up there? I mean, where is, was it, was it, if I was down there in the row, could I clearly see the deputies and exactly what was going on?

[redacted]
A. Yeah.

Hamilton
Q. Okay. Alright. Okay, anything else that you can remember? Okay. Alright. We're gonna end this interview at 1138.

Okay, also, I failed to mention that this is Sergeant Eric Hamilton, Employee No. [redacted] from ICIB.

***** END OF INTERVIEW *****

I/M [redacted]
I.C.I.B. INTERVIEW 2-21-95

WITNESS INTERVIEW

CASE NUMBER 494-00023-2300-444

[redacted]

Hamilton
Q. Okay, today's date is February 21, 1995. We're here at Men's Central Jail to interview [redacted] Booking Number [redacted] We're here to discuss an incident that occurred October 27, 1994, in Module 4400, the same place that Mr. [redacted] was housed. Mr. [redacted] also present in the room is Sergeant Ron Bell and myself, Sergeant Eric Hamilton, and it's now 1157 hours. Mr. [redacted] were your housed in Module 4400 on October 27, 1994?

[redacted]
A. Yes, I was.

Hamilton
Q. Okay, during the early morning hours?

[redacted]
A. Yes, sir.

Hamilton
Q. Okay, did you witness or hear an incident occurring up there in the sally port area?

[redacted]
A. No, sir.

Hamilton
Q. Did you see any deputies and, and an inmate...

[redacted]
A. ...No, sir...

Hamilton
Q. ...involved in an altercation?

[redacted]
A. No, sir.

Hamilton
Q. Okay, you didn't hear it, didn't hear it and see it?

[redacted]
A. Didn't hear about nothing or see nothing or no one told me nothing. The first time I heard about it is right now.

Hamilton
Q. Okay, and you were housed where again?

[redacted]
A. Right now?

Hamilton
Q. What cell? What cell? No, back then.

[redacted]
A. Six, Cell Six, Baker Row.

Hamilton
Q. Okay, and you don't remember hearing...

[redacted]
A. ...I didn't hear it. This is the first time I've ever heard of anything in that matter.

Hamilton
Q. Okay. Anything else you can tell us, any rumors that you may have heard at a later date?

[redacted]
A. Nope, this is the first time I've heard anything about it.

Hamilton
Q. Okay. Ron, you have anything?

Bell
A. Nope.

Hamilton
Q. Okay, we're going to end this interview at 1155 hours.

***** END OF INTERVIEW *****

DEP. ROBERT CHRISTOLON
I.A.B. INTERVIEW 11-9-95

WITNESS INTERVIEW

CASE NUMBER IAB 008383

ROBERT CHRISTOLON

Nemeth
Q. Today's date is November 9, 1995, the time is 0030 hours. I'm Sergeant John Nemeth of Sheriff's Internal Affairs with me is Sergeant Gjendem of the Sheriff's Internal Affairs. We're present at the MCJ captain's office, interviewing Deputy Robert Christolon regarding IAB case number 008383. Deputy Christolon, could you spell your last name, and state your employee number for the record, please.

Christolon
A. Yes, I can, capital C-H-R-I-S-T-O-L-O-N, employee number [redacted].

Nemeth
Q. Okay, and Deputy Christolon, you're a deputy sheriff assigned to Men's Central Jail, is that correct?

Christolon
A. Yes, it is.

Nemeth
Q. Okay, and when where you initially assigned to Men's Central Jail?

Christolon
A. August, '91.

Nemeth
Q. And have you been here since that date?

Christolon
A. Ever since then, yes.

Nemeth
Q. Okay. And, you recall what your assignment was on April, on, on October 27, 1994?

Christolon
A. I believe I was a 4300 prowler.

Nemeth
Q. Okay. And were you previously questioned by Sergeants Hamilton and Bell of the Internal Criminal Investigative Bureau regarding a use of force incident on that date?

Christolon
A. Just Sergeant Hamilton.

Nemeth
Q. Sergeant Hamilton, and did you respond to module 4400...

Christolon
A. Yes, I did.

Nemeth
Q. ...that date?

Christolon
A. Yes.

Nemeth
Q. Okay, can you tell us where you were when you were first alerted to some event happening there?

Christolon
A. I had just gotten down to the ODR, got a phone call, I don't know who the phone call came from, I just assumed it was the booth person, said there was, something going on in 4400 and I went to 44.

Nemeth
Q. Okay, and who were down in the ODR with?

Christolon
A. Deputy [redacted], and I believe, on our way up, Senior Leachman came up with us. I'm not sure who the senior was that night. I just don't remember who it was.

Nemeth
Q. Okay. Was there a senior with you down there in ODR?

Christolon
A. I don't, I don't think he went with us, but he just happened to be down there, I know a senior came up with us, when we came up, I just don't remember which one it was.

Nemeth
Q. Okay, well, let me, let me ask you this. If I mention a name, would that potentially jog your memory?

Christolon
A. Probably.

Nemeth
Q. Okay, do you remember seeing Senior Jackson...

Christolon
A. Okay.

Nemeth
Q. ...in the ODR?

Christolon
A. Right, yes, it was Senior Jackson.

Nemeth
Q. Okay, so, did you guys go down to chow together that night, or did you just bump into Jackson down there?

Christolon
A. We bumped into Jackson down there.

Nemeth
Q. Okay, you and [redacted] went together, is that right?

Christolon
A. Right, right.

Nemeth
Q. And, you were both working 4000 floor that night?

Christolon
A. Correct.

Nemeth
Q. Okay, and you're in the ODR, you and [redacted], is that right?

Christolon
A. Right.

Nemeth
Q. Were you just like about to get your trays filled up or something, or...

Christolon
A. Yeah, we had just walked down there, and we hadn't even decided what we were gonna do. Sometimes we'd stay there, but a lot of times we'd grab a tray and come back up and start relief, and the phone rang so...

Nemeth
Q. Okay, so you had just arrived.

Christolon
A. Right.

Nemeth
Q. And, where was the senior when you, when you got there?

Christolon
A. I believe he was already on the line, standing on line.

Nemeth
Q. On the food line...

Christolon
A. Right.

Nemeth
Q. ...getting his food? Okay, and which phone rang?

Christolon
A. You know what? We got a radio, we, we called up after somebody called us on the radio, at 1021 floor control, either 1021 or 1019, I'm not sure.

Nemeth
Q. Okay, so what came over the radio was not an announcement of some incident, it was an announcement for you to either return to your work area, or to call your work area, is that right?

Christolon
A. I can't recall, but that's probably what happened, if we just called out there.

Nemeth
Q. Okay, 'cause that's, that's what you remember happening...

Christolon
A. Right.

Nemeth
Q. ...you called up there...

Christolon
A. And somebody said, yeah, if somebody had said 415, we would have just, every, well, everybody in the building would have ran over there.

Nemeth
Q. Right.

Christolon
A. So, if we called first, somebody probably just wanted us to call either 44, or 4000, so we called up.

Nemeth
Q. Okay, do you remember where you called?

Christolon
A. We called 4000 control.

Nemeth
Q. Who called on the phone?

Christolon
A. That I don't, I don't remember who was working the booth that night.

Nemeth
Q. No, I know, I mean, between you and...

Christolon
A. Oh, who called the phone?

Nemeth
Q. Yeah.

Christolon
A. I think, I thought, I thought I called.

Nemeth
Q. Okay, so that's why you remember, right, because it was you who picked up the phone and called.

Christolon
A. Probably.

Nemeth
Q. Okay, and who did you call?

Christolon
A. Floor control.

Nemeth
Q. And who did you speak to then?

Christolon
A. I don't remember, who picked up the other end of the phone, but they, whoever it was, told us that there had been some sort of incident, or 415 in 44 and then that's when the three of us went upstairs.

Nemeth
Q. Okay, now, I don't want to put words in your mouth, or names in your mouth, and I'm gonna mention a name, and just like we did with the senior, if it jogs your memory...

Christolon
A. Right.

Nemeth
Q. ...then say so. Do you remember who was working the floor control that night?

Christolon
A. I don't remember.

Nemeth
Q. Okay. Does Deputy Howard's name ring a bell?

Christolon
A. Well, actually, it doesn't. I don't...

Nemeth
Q. She's a female deputy.

Christolon
A. Yeah, I know who she is.

Nemeth
Q. And she was [redacted] at that time?

Christolon
A. Yeah, so she would have been working the booth, because when she was [redacted], she was in the booth.

Nemeth
Q. So, could it have been her and you don't remember, or...

Christolon
A. It, it could have been her and I don't remember.

Nemeth
Q. You don't remember somebody else, though, right?

Christolon
A. I don't remember specifically who it was.

Nemeth
Q. Okay, okay, so you called the 4000 control to speak to somebody there, and what, what happened next?

Christolon
A. Then, Deputy [redacted], Senior Jackson and I went up in the elevator and we went to 4400.

Nemeth
Q. Okay.

Christolon
A. You want me say what I saw when I walked in, that's...

Nemeth
Q. Well, we'll get there.

Christolon
A. Okay.

Nemeth
Q. You're doing fine.

Christolon
A. Oh.

Nemeth
Q. Okay, so you guys leave the, you're told, well, the other person on the end, of the other end of the phone, says what to you, "There's something going in 3400, or...."

Christolon
A. Right, there's some sort of incident that either just happened or was happening, and they needed us upstairs.

Nemeth
Q. Okay, did you tell them you had the senior with you or...

Christolon
A. No, he just came up with us.

Nemeth
Q. Okay. Did the senior talk on the phone?

Christolon
A. No.

Nemeth
Q. Just you?

Christolon
A. I just, I just said something's going on 44, and we all just went upstairs.

Nemeth
Q. Okay. So, you rode that elevator...

Christolon
A. Right.

Nemeth
Q. ...you walked...

Christolon
A. ...freight elevator.

Nemeth
Q. ...down the long hallway, and you get in the new freight elevator...

Christolon
A. (Inaudible) we just get in the elevator down in the kitchen in the ODR.

Nemeth
Q. That goes up, okay...

Christolon
A. Right.

Nemeth
Q. ...the far...

Christolon
A. Right.

Nemeth
Q. ...one.

Christolon
A. So, we come off the elevator, and then we go down the new, we get off at which ele, elevator it was, we make a left, and we go to 44.

Nemeth
Q. Right. In other words, you only rode one elevator and it took you right to 4000.

Christolon
A. Right.

Nemeth
Q. Okay. And, you go right to the module, to 44?

Christolon
A. Correct.

Nemeth
Q. All three of you together?

Christolon
A. Right.

Nemeth
Q. Who's first in?

Christolon
A. I can't remember who was first in. It was just whoever got through the door first, I'm not sure who it was.

Nemeth
Q. Do you remember the condition of the one gate, the main door to the module, was it open already, was it released but closed, or locked, or what?

Christolon
A. I wanna say it was open, but I'm not sure right now. I'm not.
Nemeth
Q. Okay.

Christolon
A. Getting kind of far away from what happened.

Nemeth
Q. Okay.

Christolon
A. So.

Nemeth
Q. Was anybody holding it open or anything like that?

Christolon
A. I don't think so.

Nemeth
Q. Okay. So, you don't remember who's first, you, you the three of you go, entered the module one after another?

Christolon
A. Right.

Nemeth
Q. And, and what do you see?

Christolon
A. I walk in, I saw some deputies, I saw an inmate that was hand cuffed and bleeding on the floor, kind of looking around, mumbling and yelling and some, he was making some noise while I was there. I asked everybody, "Hey, I said, you know, everybody okay? What happened." Everybody started saying, "Well, this happened, this happened," everybody was okay. I don't remember if I went out and had somebody call the clinic, I can't remember who went to make sure the clinic came up, but I remember after everything was going,

I did a relief in 4400 while everybody else was doing their thing, force packets, and I guess a couple people had to go to get their, get themselves checked out for injuries or whatever, and I did a relief in 44 while all that was going on.

Nemeth
Q. Okay. You said, you used the term, "everybody." Who, who did you see in there, you saw the inmate, handcuffed...

Christolon
A. Right.

Nemeth
Q. ...you said.

Christolon
A. They were, when I went in, I saw the inmate, he was handcuffed, he was bleeding, lying on the left hand side, or sorry, the right hand side of the sally port when I walked in. Deputy Sloan was in there, Deputy Kluth, Deputy [redacted], Deputy [redacted], myself, Deputy [redacted], and Senior Jackson.

Nemeth
Q. Okay, so the, the two individuals you came up with plus the other four.

Christolon
A. Right, the four that were already in there.

Nemeth
Q. Okay, and the inmate and that's it.

Christolon
A. Right.

Nemeth
Q. No other deputies?

Christolon
A. No other deputies.

Nemeth
Q. Okay, and the inmate's handcuffed?

Christolon
A. Correct.

Nemeth
Q. Is he restrained in any other way?

Christolon

A. I can't remember if he was hobbled or not.

Nemeth
Q. Okay. You said he was to your right as you walked in, so would that place him on the B...

Christolon
A. (Inaudible).

Nemeth
Q. Baker Denver side?

Christolon
A. Right, he'd be on the Baker Denver side.

Nemeth
Q. Okay, and can you describe his position on the floor, you said he was on his side, do you remember which side?

Christolon
A. No, I, I think him, himself was on his, was he on his stomach, he was either on his stom, stomach, or his side, but however he was, his head was turned so if he was facing the Able Charley row side, because I remember looking at him, and his eyes, he was looking at everybody, kind of standing around.

Nemeth
Q. Okay.

Christolon
A. So.

Nemeth
Q. Okay, and so, would, would his head be closer to the A, or the Baker Denver gates, or would it closer to the mop closet?

Christolon
A. His, his head was towards the gates, his feet was towards the mop closet.

Nemeth
Q. Okay. Head towards the gate, feet towards the mop closet, so his feet were, were the first thing you saw if you walked in from the main gate?

Christolon
A. Well...

Nemeth
Q. where you are.

Christolon
A. ...from, from the corner, you'd probably see his head first, because it's, the way, the way the wall is, you would see the...

Nemeth
Q. Okay.

Christolon
A. ...front of him before you would see his feet.

Nemeth
Q. Alright, but his feet were pointing in the same direction that the one gate is to the module...

Christolon
A. Correct.

Nemeth
Q. ...right? And, if he were on his side, you're saying you're not sure if he was on his side or his stomach, but if he was on his side, he'd have to be on his right side in that configuration, right...

Christolon
A. Right.

Nemeth
Q. ...in order to get his head pointed that way, either on his stomach, or his right side, right?

Christolon
A. Right. If he was on his side, he would have had to been on his right side.

Nemeth
Q. Okay. Are you pretty sure of that configuration, that's how he was?

Christolon
A. Well, either his stomach or his side, yes.

Nemeth
Q. No, I mean where his head was?

Christolon
A. Oh, yeah, his head by the gate, to his feet by the mop closet.

Nemeth
Q. Okay.

Christolon
A. That, that seems to stick out, the way he was.

Nemeth
Q. Okay, do you remember some blood being there?

Christolon
A. I remember some blood on the floor.

Nemeth
Q. Okay. Was that the inmate's blood.

Christolon
A. As far as I knew it was, yeah.

Nemeth
Q. Did you see any deputies bleeding?

Christolon
A. No, I don't remember seeing any deputies bleeding.

Nemeth
Q. Okay. Did you see where the in, where the inmate was bleeding?

Christolon
A. I thought it was his head, I didn't like look that close, but I believe it was his head, thought he had a cut over his eye, or just to the side of the scalp, but I can't remember, but some (inaudible), I remember that.

Nemeth
Q. Uh-huh. And, can you describe the amount of blood there?

Christolon
A. Hmmm.

Nemeth
Q. Or, describe the area that it covered?

Christolon
A. I didn't think it was that big a deal. I...

Nemeth
Q. Small amount?

Christolon
A. (Inaudible), I mean, it was, it wasn't like tiny drops, there was a little pool there, but it, it wasn't anything that I thought was that bad.

Nemeth
Q. Okay, let's just describe the area of the floor.

Christolon
A. Okay.

Nemeth
Q. You're holding your hands about...

Christolon
A. Yeah, if we had a ruler...

Nemeth
Q. ...six, eight inches apart?

Christolon
A. I, I'd say that, that, that sticks out in my mind, probably be about that much blood.

Nemeth
Q. Okay. So, you're kind of indicating...

Christolon
A. Right.

Nemeth
Q. ...a circular pattern, is that right?

Christolon
A. Right, it was more of a circular pattern.

Nemeth
Q. Okay, and you held your hands about six or eight inches apart, something like that...

Christolon
A. Yeah, just (inaudible).

Nemeth
Q. ...like as if you're holding a basketball, or something like that?

Christolon
A. Yeah, a little smaller than a basketball.

Nemeth
Q. Okay, okay. Now, did you see any injuries to the deputies?

Christolon
A. Not that I could see, I, nothing really visible that stuck out to me, no.

Nemeth
Q. Okay. Can you describe Deputy Kluth's appearance?

Christolon
A. He looked like he had been in a struggle, wrestling match, kind of twisted and his uniform's kind of disheveled, and stuff like that.

Nemeth
Q. And when you say twisted his uni...

Christolon
A. Like his shirt...

Nemeth
Q. ...was out of line...

Christolon
A. ...his shirt, his shirt, yeah. He just looked disheveled like he'd been in a little scuffle, whatever.

Nemeth
Q. Did you see any injuries or anything to him?

Christolon
A. I just really asked them, "Are you okay, are you okay," and when they said, they were okay, and when they said they were okay, then I went about trying to figure out what was gonna happen next in terms of everything else.

Nemeth
Q. Alright. Did, when you asked them out, "Are you okay," and they said, "Yeah," did, did they complain of pain or say anything else? Describe the incident?

Christolon
A. They, they said that...

Nemeth
Q. Okay, let's qualify, who's they?

Christolon
A. Okay, the dep, well I didn't go specifically, I just had people all talk at once. They said the inmate was in sally port, and something was going on, and Deputy Kluth went off to talk to him, and from what I remember is, the inmate somehow was almost choking Deputy Kluth out. And that's when the, I guess, the fight was on, whatever, they were wrestling around. He, I guess those deputies came and helped him. I guess Deputy [redacted], and [redacted] had come in to help him, they said they took him down and, and handcuffed him, stuff like that.

Nemeth
Q. Okay, so when you say they, are you saying collectively, they all told you that, or...

Christolon
A. Right, that that's what had happened, there was an incident, they, whenever they came in, he was choking Kluth out when they got there, they took him down...

Nemeth
Q. Who's telling you this?

Christolon
A. This was, it was just everybody, everybody's kind of like, well, this is what happened, everybody collectively at once, and I was like, "Oh...

Nemeth
Q. Alright.

Christolon
A. ...whatever." Then, the clinic started coming in and everybody was all, "We gotta get all this done, we gotta do this, we gotta do that." Some of the deputies had to go to somewhere. They asked me if he complained of pain, I would only assume they had to have to been, or else they wouldn't have gone to Boyle Heights or wherever they were going at the time, whatever (inaudible).

Nemeth
Q. Who went there?

Christolon
A. I'm not really sure who went, because I did relief in the module while everybody else was...

Nemeth
Q. Okay.

Christolon
A. ...getting all their paperwork and everything done.

Nemeth
Q. Okay, when you came in, can you describe to me where you saw Kluth in the module?

Christolon
A. I don't remember where deputies were standing, where deputies, when I came in, there was just four deputies, those four deputies were in the sally port. And, I was like, "Hey," you know, "I saw the inmate, what's going on," and I don't remember where he was,

but I think, you know it was, trying to think where Sloan was. Somebody was standing at the module door, at the front door, but I can't remember who that was, and the other three were standing out, I think the other three were standing out in the sally port still.

Nemeth
Q. Okay, (inaudible) the front door to the module, do you mean, the one gate door...

Christolon
A. No, the one gate door is the sally port door, the door that leads into the booth.

Nemeth
Q. That 4400 officers...

Christolon
A. Right.

Nemeth
Q. ...security booth area?

Christolon
A. Right.

Nemeth
Q. Okay, and do you remember who that was?

Christolon
A. I can't remember who that was.

Nemeth
Q. Okay. Do you know, and then the other three were just in the sally port and now, you're, you're, let's qualify what you're describing as the sally port area. Is that the area directly outside the module 4400 booth near the A, B, C, D gates?

Christolon
A. Okay, right where the, where the booth door, is, is in the middle, and there's four row gates that make a line straight across, and everything in front of that up until the one gate, except for the two, like the laundry room and stuff like that is considered the sally port.

Nemeth
Q. Okay, I understand what you're saying. Okay, so, that's where you saw them. Now, did anybody explain to you how the inmate got into the sally port area?

Christolon
A. No, I didn't know how he got there, I didn't know if he was a fish, or if he was coming back from a pass, or whatever.

Nemeth
Q. Okay. Now, Kluth was assigned to work that 4400 module that night, correct?

Christolon
A. Right.

Nemeth
Q. Okay. Do you have any idea how Kluth got outside the module security officer's area to the sally port with the inmate?

Christolon
A. From my understanding was Sloan was in there, and they were talking, and then Sloan stayed in the booth while Kluth went out. That's my understanding. I don't know.

Nemeth
Q. Sloan came inside module 4400 security area where the deputy works to visit...

Christolon
A. Right.

Nemeth
Q. ...with Kluth for a few minutes?

Christolon
A. Right.

Nemeth
Q. And, and Kluth then stepped outside, and confronted the inmate, that your understanding?

Christolon
A. He went out the, the sally port to talk to him. And that's from what I've been told is when the inmate tried to, got him in a choke hold, whatever.

Nemeth
Q. Okay, and how did you come to that understanding that that had occurred?

Christolon
A. That's just what I...

Nemeth
Q. (inaudible).

Christolon
A. ...had heard from those guys when I said what happened?

Nemeth
Q. Uh-huh.

Christolon
A. They were saying that Kluth had gone out there to talk to him.
Nemeth
Q. Okay, and who told you that Sloan came in and was talking to Kluth prior to this happening?

Christolon
A. I may have even heard that later that Sloan had been in there. I know when Kluth worked the floor before Sloan would come up because they both worked basement kitchen before together. Sloan would come up and talk to him and visit him after for a few minutes all the time.

Nemeth
Q. Okay, alright, so it's your understanding that Sloan and Kluth were in the module together when the incident broke out?

Christolon
A. Right.

Nemeth
Q. Nobody else?

Christolon
A. Not as far as I know, no.

Nemeth
Q. Okay, okay. Now, did, did any of the deputies tell you what, what they did to restrain this inmate when they got there?

Christolon
A. I know Deputy [redacted] said he had been holding his legs, I don't know who was actually handcuffing him and stuff, I know [redacted] was holding his legs, and other deputies handcuffed him.

Nemeth
Q. Other deputies handcuffed him?

Christolon
A. Well, of the deputies that were there, I just don't know which ones.

Nemeth

Q. Okay. Alright, do you remember what time, going back to when you're first getting notified of this here in the ODR, on your lunch break with [redacted], you guys went down to take a break together...

Christolon
A. Right.

Nemeth
Q. ...do you know what time that was when you got that radio call to call the, the floor office?

Christolon
A. I don't, I don't remember exactly, but if it was along the normal pattern of when we go down there, we usually go around 12:30, somewhere between 12:30 and quarter to one, so, that's, but that's the best I can do, and that's all speculation, because that's just when we usually go down to the ODR.

Nemeth
Q. Okay, so do you have any notes or anything of this incident that you wrote in your notebook?

Christolon
A. No, I don't.

Nemeth
Q. Okay. Do you, did you prepare any written reports in regards to this incident?

Christolon
A. I don't remember if I had to do a witness force thing, because I had seen the inmate lying there or not. I don't remember if I actually wrote anything or not.

Nemeth
Q. Okay, well, I have the force package, and there's nothing from you in there.

Christolon
A. Okay, yeah then, I didn't write it.

Nemeth
Q. Okay, well, did you witness any force?

Christolon
A. No, I just told you like we walked in the guy was lying there already, but, well, I guess that was before, sometimes now, you come in after an in, incident, and everybody still wants to see, what you, say what you saw anyway.

Nemeth
Q. So, is that something that's happened since this, since the advent of this occurrence?

Christolon
A. Well, I think that's just happened a lot more probably department-wide, use of force incidents now, even if you didn't actually witness the force, if you come in after the fact, sometimes you have to write what you saw when you got there anyway.

Nemeth
Q. Well, what I'm asking you, is that a practice at this time, back in October of '94, or is that something that's happened...

Christolon
A. I think that's happened...

Nemeth
Q. ...since.

Christolon
A. ...after, after.

Nemeth
Q. Okay. What do you understand the sheriff's department policy regarding...

Christolon
A. If you witness force, if you see somebody do something that's force, you report it to your immediate supervisor, sergeant, or above.

Nemeth
Q. So, you report it to them verbally and then you're required...

Christolon
A. Right.

Nemeth
Q. ...to make some kind of form...

Christolon
A. and then...

Nemeth
Q. ...fill that out?

Christolon
A. He'll decide whether it needs to be filled out or not.

Nemeth
Q. Okay, and we've already established that you didn't do a written form...

Christolon
A. Right.

Nemeth
Q. ...did you make a verbal notification to anybody...

Christolon
A. Well, a senior...

Nemeth
Q. ...of this incident?

Christolon
A. ...was there, and then I believe the sergeant had come up on the floor already, so everybody, he asked everybody, you know, what's going on, and everybody said, "Well, we saw this, but we got here when he was handcuffed, and went from there."

Nemeth
Q. Okay. Who's everybody, when you say everybody?

Christolon
A. When, when I say everybody, I mean, at that time, the four deputies that were there before I got there, and then myself, [redacted], and Senior Jackson.

Nemeth
Q. Okay. Well, the four deputies that got there before you, they're not saying that they got there and he was already handcuffed, right?

Christolon
A. I don't know, I don't know what they were saying.

Nemeth
Q. Okay. Well, let's try to give...

Christolon
A. I don't, I don't.

Nemeth
Q. (inaudible). Just say, either put a name to it, or I, for yourself.

Christolon
A. Right, okay, that's fine.

Nemeth
Q. Okay, now, how long after you were there did, did the sergeant respond?

Christolon
A. I don't know exactly but, it was, it was pretty quick, because of the clinic got up there pretty quick, and I seem to remember the sergeant being around even when the clinic was there.

Nemeth
Q. He was there before the clinic personnel got there?

Christolon
A. I can't remember if it happened at the same time, or slightly before or slightly after.

Nemeth
Q. Okay. Do you remember who the sergeant was that night?

Christolon
A. Somebody on overtime, it was Sergeant Mosely.

Nemeth
Q. Okay, and do you know where he came from to get there?

Christolon
A. No, I don't.

Nemeth
Q. How long had you been there when he got there?

Christolon
A. Like I said, I know he was there by the time the clinic had gotten there, and I remember the clinic being there pretty quick, too.

Nemeth
Q. So, shortly after you got there?

Christolon
A. Right.

Nemeth
Q. Can you put a...

Christolon
A. I really don't...

Nemeth
Q. ...time estimate on it...

Christolon
A. ...I don't know how long it took the clinic to get.

Nemeth
Q. Okay, did somebody notify the clinic after you had gotten there, or had they already been notified before you got there?

Christolon
A. They may have been notified before we got there, but I know when we got there, we told somebody to make sure they notified the clinic again.

Nemeth
Q. Okay, so, you're not certain if they were notified before you got there?

Christolon
A. Right, I'm not certain.

Nemeth
Q. Okay.

Christolon
A. I know that when we got there, then, we said, we told somebody to call the clinic, so.

Nemeth
Q. Okay. Now, you said that [redacted] told you that he grabbed the inmate's legs.

Christolon
A. Right, he was restraining the legs.

Nemeth
Q. Okay. You don't remember if the inmate was hobbled or not, is that right?

Christolon
A. I, I don't remember now. I don't know if I remembered the initial time, I thought (inaudible) that now.

Nemeth
Q. Okay, alright, and again, just to clear the record, there's no notes or reports that you filled out that will refresh your memory?

Christolon
A. No.

Nemeth
Q. Okay. When you got there, was it your opinion that the incident was over?

Christolon
A. As far as I was concerned, the inmate was lying there, just looking around handcuffed, as far as I knew, the incident was over.

Nemeth
Q. Okay, did you see anybody applying control holds or using any force on the inmate while you were there?

Christolon
A. No.

Nemeth
Q. And, did you ever touch the inmate yourself?

Christolon
A. No.

Nemeth
Q. Okay. I guess my question is do you, do you know, you've already said, just from going by your normal routine, it was probably 12:30 or quarter to one in the morning...

Christolon
A. Right.

Nemeth
Q. ....when you were radioed to call 4000 control, which, which you did, you made the phone call...

Christolon
A. Yeah, I believe it was me, yes.

Nemeth
Q. ...and said, or told, "Get up to 4400..."

Christolon
A. Right.

Nemeth
Q. ...something had happened.

Christolon
A. Correct.

Nemeth
Q. Were you told how long ago something had happened?

Christolon
A. No.

Nemeth
Q. Okay, were you told this was something that was on-going?

Christolon
A. From the impression I got, it was either, it was either freshly over or something had recently happened, and they just needed people up there.

Nemeth
Q. Okay. So, was it your impression that it was not in progress then, based on what you just said?

Christolon
A. All I'm saying is, it was either just like, just happened, or was just about to wind down, there were people there who were taking care of it, and they just wanted somebody who worked the floor.

Nemeth
Q. Right.

Christolon
A. So, we needed to be there.

Nemeth
Q. Okay, I understand. And, so, based on that, it's not being put out over the radio as a 415 deputies involved, right?

Christolon
A. It had less of a urgency on it because it didn't come out over the radio that way.

Nemeth
Q. Right. Okay, I understand. And, do you know then, by virtue of that statement, how long before you were notified that incident started?

Christolon
A. No, I don't.

Nemeth
Q. So, when you got there, did anybody tell you how long ago this had happened or anything like that?

Christolon
A. No, I just assumed that it just happened, because everybody was still there. Well, the, like I said there was four deputies that were still there when we came in, and they were looking around at the inmate.

Nemeth
Q. Okay. Is it customary that when a force incident occurs, the deputy personnel involved remain at the scene until a supervisor arrives, at least?

Christolon
A. I don't know if it's customary or not, but since the guy was handcuffed there, I'm just making the assumption that everybody who's involved stayed, because they were watching him, and the guy was definitely bleeding. It's not customary to just leave a bleeding inmate on the floor and everybody takes off and does their own thing, so.

Nemeth
Q. Okay, but when you got there, you don't know how long that incident had been over?

Christolon
A. I just assumed it had just recently been over. I mean I walked in, there were deputies that looked like they had just been in a struggle, catching their breath, standing there watching the inmate, so I made the assumption that it had just happened.

Nemeth
Q. Okay. Who was catching their breath?

Christolon
A. I said Dep, Deputy Kluth. He's the one that sticks out the most, he was the most disheveled and stuff. Everybody else was there, you know, you just look at people and it looks like they were just in a struggle, not sitting or panting, but everybody's like taking a step back to look at just what happened, and stuff like that. And maybe, taking a breath is kind of an encompassing term, everybody wasn't going, breathing really hard, but they had that look about them.

Nemeth
Q. Okay, and was there any, any other deputies there when you got there, just the four of them that you described.

Christolon
A. Just, just those four.

Nemeth
Q. Okay, and did you see any deputies leaving as you came up?

Christolon
A. No, I can't remember if I saw anybody leaving or not.

Nemeth
Q. That mean you might have saw somebody and don't remember now?

Christolon
A. Yeah, I may have, I just don't, but that doesn't stick out in my mind at all.

Nemeth
Q. Okay. Now at some point later, did you learn that some other personnel had been there prior to your arrival?

Christolon
A. I did, somebody had been saying they thought they saw the deputies that had come in, nobody said any names, just that, "Yeah, there was somebody here and they left," and it just like the deputies came down for 415 and took off. I said, "Whatever."

Nemeth
Q. Who said that?

Christolon
A. I think that was just words that you hear. Once stuff happens, you start to hear people and talking. I mean, that's stuff you catch when you're coming in and out.

Nemeth
Q. Coming in and out of?

Christolon
A. Just, in the jail, walking around.

Nemeth
Q. Okay, well, I guess I'm talking about that night, okay?

Christolon
A. I don't know, he, nothing's like I said, you start hearing stuff later and later...

Nemeth
Q. Sure, uh-huh.

Christolon
A. ...about everything.

Nemeth
Q. Uh-huh. So, that night, had you heard that somebody had been there and left before you got there?

Christolon
A. I don't know that night or not, because like I said, I was in the booth most of the time after that, doing relief.

Nemeth
Q. The 4400 booth?

Christolon
A. Right, 4400 relief.

Nemeth
Q. Okay, but as you sit here today, you can say that yes, you've heard that somebody was there before you got there, and had left before you got there, correct?

Christolon
A. Probably, yeah.

Nemeth
Q. Okay, and who was that?

Christolon
A. I don't know. 'Cause people say deputies responded, deputies took off, it happens all the time, a deputy walks by, says, sees everything's under control, then leaves. I mean, I've even done that, I walk by, like, if I had run to another 415 on the floor here, and gotten there, and there were just a bunch of deputies standing around, generally, I don't even go into the module because it's over, or too many deputies just makes things more confusing, so, I'm like, "See ya."

Nemeth
Q. Okay, alright. You were the prowler assigned for 43, 44 that night. Is that right?

Christolon
A. It doesn't work that way on earlies. There's a 4300 prowler that's listed on the in service, and a 4000 prowler. The 4300 prowler is because it's a mental observation module, so, technically, you're assigned 4300 module to prowl. That's if we're short and only have two prowlers on all early mornings, we both just kind of cover the whole floor.

Nemeth
Q. Okay, you had no idea that this event was gonna occur, though, correct?

Christolon
A. No, it...

Nemeth
Q. Alright, 4000 floor was one of your areas of responsibility, right?

Christolon
A. Correct.

Nemeth
Q. Okay. Did you, so, did you ever accompany the inmate downstairs to the clinic or anything like that?

Christolon
A. No, like I said, I was in, I did the relief in 44. I mean, I don't remember, if I walked him down to the clinic and came back up, I may have done that, but, I, specifically just remember just going to 44 to do the relief.

Nemeth
Q. Alright. Did you take notice of the inmate's footwear, did he have any footwear on?

Christolon
A. I, I don't remember if he had footwear on or not.

Nemeth
Q. Okay. Did you notice any injuries besides the bleeding injury to the inmate?

Christolon
A. No, I didn't.

Nemeth
Q. Alright. Did, aside from Kluth telling you the inmate tried to choke him or something like that, is that what you said earlier?

Christolon
A. Right.

Nemeth
Q. Did the, did any of the deputies tell you anything else the inmate tried to do to them?

Christolon
A. No, it was just the general, we had to wrestle him down, whatever, to get him handcuffed.

Nemeth
Q. Okay, did any of the deputies there, now, I'm talking about Sloan, [redacted], and just for the transcriber's benefit, that's [redacted] or [redacted], also pronounced as [redacted], [redacted], [redacted], or Kluth, K-L-U-T-H. Did any of those four deputies tell you that they had kicked the inmate?

Christolon
A. No, I don't remember anybody saying anything about kicking the inmate.

Nemeth
Q. Okay, you're saying you don't remember, does that mean they might have said it...

Christolon
A. No.

Nemeth
Q. ...and now you don't remember, or they didn't? They didn't tell you, nobody said the inmate.

Christolon
A. Right, I don't remember anybody saying that.

Nemeth
Q. Okay, did, did any of the deputies they hit the inmate with a flashlight or an impact weapon of any kind?

Christolon
A. I don't remember that either, I don't remember anybody telling me that.

Nemeth
Q. Okay. Did any of the deputies present there have flashlights, any of the four?

Christolon
A. I can't recall if anybody had a flashlight or not, I generally don't look to see who's carrying a flashlight.

Nemeth
Q. I'm saying to jog your memory.

Christolon
A. No, no, no, I don't, I just don't remember.

Nemeth
Q. Okay, and did any of the deputies tell you that they had touched the inmate in his oop, we're running out of tape, here, a second.

Christolon
A. (Inaudible) the groin question.

Nemeth
Q. Yeah, the groin question, and we got a little bit left, did any of the deputies involved tell you they touched him in the groin in any fashion?

Christolon
A. No, they didn't no.

Nemeth
Q. Okay, we're continuing with the interview of Deputy Chris Christolon?

Christolon
A. Christolon.

Nemeth
Q. Christolon. I guess the question I asked you just before the tape expired on the other side, is, would you, you were not present for any of the use of force, is that correct?

Christolon
A. Right.

Nemeth
Q. Would you know if they had?

Christolon
A. No.

Nemeth
Q. Okay. Sergeant Gjendem, do you have (inaudible)?

Gjendem
Q. Yeah, a couple. You answered this one here, got it by radio down in the...

Christolon
A. Right.

Gjendem
Q. And you made the telephone call back to 4000?

Christolon
A. Right.

Gjendem
Q. Did you prepare any reports?

Christolon
A. No.

Gjendem
Q. None whatsoever on this entire incident?

Christolon
A. No.

Gjendem
Q. The deputies, how much blood did you see on Kluth?

Christolon
A. I don't remember how much blood I saw on him. I know that one of those four deputies went and changed his shirt, because there was blood on it, I just don't remember who it was.

Gjendem
Q. And, Sloan?

Christolon
A. I don't remember.

Gjendem
Q. Okay, and [redacted]?

Christolon
A. I, I don't remember.

Gjendem
Q. [redacted]?

Christolon
A. I don't remember there either.

Gjendem
Q. Do you carry rubber gloves with you?

Christolon
A. Yes, I do.

Gjendem
Q. Do you have them on you tonight?

Christolon
A. Yes, I do.

Gjendem
Q. When you went into the dorm, did you have rubber gloves with you?

Christolon
A. I probably had 'em with me, I mean there's the odd day when I forget to put gloves in my pocket, or I've used them and I forget to put more in until I pass another box of gloves.

Gjendem
Q. Did you have rubber gloves on you when you went in?

Christolon
A. I don't remember if I had them on or not.

Gjendem
Q. And, you said the senior got up there, right, with you?

Christolon
A. Correct.

Gjendem
Q. Did the senior stick around?

Christolon
A. Yes, he was there.

Gjendem
Q. And, what, what was he doing?

Christolon
A. I think he was trying to find out what was going on, too, just like the rest of us.

Gjendem
Q. Where was he doing that at?

Christolon
A. I believe he was in the sally port with us, initially, and then I don't remember if he walked out or stayed in, or was talking to other deputies that were in the sally port with us, or, where he went.

Gjendem
Q. Did you see Sergeant Mosely come up there?

Christolon
A. I was, I was there when Sergeant Mosely came around, yes. I remember seeing him there.

Gjendem
Q. Who told you to come down here to the office tonight?

Christolon
A. Deputy [redacted].

Gjendem
Q. And how did he tell you?

Christolon
A. He called me up on the phone.

Gjendem
Q. What did he tell you to do?

Christolon
A. He said, come down to here, to the captain's office, that somebody's here to interview you.

Gjendem
Q. Is that all he told you?

Christolon
A. Yes.

Gjendem
Q. And, after he hung up, after you hung up on the phone with him, did you talk to Deputy [redacted] again, prior to coming in here?

Christolon
A. No, I just saw him go on the stairs, I was gonna give him my note that the two mishaps we still had on the floor, I didn't get it to him quick enough, so I just came here.

Gjendem
Q. Did you talk to Deputy [redacted] at all? After the telephone conversation, prior to walking in this room?

Christolon
A. No, just like I said, I was doing, just on the escalator, I said, "Hey, we have two more mishaps on the floor here, here's the note, but I didn't get a chance to pass it to him.

Gjendem
Q. But, you did talk to him?

Christolon
A. Right, just, but that's, that's all it was about, the mishaps.

Gjendem
Q. When [redacted] told you that, I believe it was [redacted], told you that they had, that he held on to the inmate [redacted] legs...

Christolon
A. Right.

Gjendem
Q. ...during the, the fight there in the sally port area, where was the senior at?

Christolon
A. I don't remember if Jackson was standing around in the sally port, or if he was trying to get somebody to call the clinic, or whoever was trying to call the clinic, whatever.

Gjendem
Q. Where was [redacted] at when [redacted] told you that?

Christolon
A. I don't know where he was, he, I mean everybody, everybody's standing there, but I mean, you, you get kind of paired off, and, and people are having a conversation, you're not even paying attention to what everybody else is saying.

Gjendem
Q. You have no recollection of Senior Jackson during that conversation between you and Deputy [redacted]?

Christolon
A. I wouldn't know if he heard or not?

Gjendem
Q. How about Deputy [redacted]?

Christolon
A. I wouldn't know if he heard or not either.

Gjendem
Q. Who directed you to take over module 4400?

Christolon
A. I probably just did it on my own, because I knew those guys needed to go and do other stuff.

Gjendem
Q. Did you interview any witnesses to this?

Christolon
A. No, I didn't.

Gjendem
Q. Did you see a Senior Deputy Jackson interview anybody?

Christolon
A. I, I don't know if he did it or not...

Gjendem
Q. When I say anybody, I'm talking about...

Christolon
A. Deputies and inmates?

Gjendem
Q. ...deputies and inmates.

Christolon
A. I know he asked the deputies what happened when we got there, and then I know he, I believe it was Jackson that took people to wherever we go for the checks, for the medical checks, I'm not positive on that either, I think that's just an assumption, because usually the floor senior takes the people when stuff happens on the floor.

Gjendem
Q. Takes the people, what people?

Christolon
A. Whoever, I know that, I know that at least one, maybe two deputies went to Boyle Heights, or White Memorial, or wherever we do the, the deputy [redacted], or not [redacted] stuff, but, like if the deputy gets [redacted] kind of stuff. I'm not sure who went.

Gjendem
Q. Did you ever see the watch commander come up to the dorm?

Christolon
A. I don't remember if he came up or not.

Gjendem
Q. Do you know who the watch commander was that night?

Christolon
A. I don't remember. You know what? Wait a minute, did we have an acting watch commander that night? Like when you guys say it, for some reason, I think there was an acting watch commander that night, I think it was Duncan.

Gjendem
Q. Did you see Duncan up at the module, 4400, at any time?

Christolon
A. I can't remember if he came up or not.

Gjendem
Q. Did you see him at all that night?

Christolon
A. I prob, I must have seen him, because I don't generally look at the in-service, and for some reason, it sticks out in, in my mind that Duncan was the acting watch commander on that night, so I probably saw him somewhere in the building that night.

Nemeth
Q. Alright, a moment ago, when we first started this tape, and as the other side ended, you said is this gonna be the groin question? What caused you to say that?

Christolon
A. A couple of days after the whole incident had been done and everybody was talking about it, they heard that when he got to LCMC, the doctor was checking him out, and his test, one of his testicles were crushed, and that's what I figured was gonna happen here, and just, you hear things through the grapevine, and a lot of the hang-up on this whole use of force, revolves around that groin injury. I don't know if it does or not, but, that was the general rumor back when it all started.

Nemeth
Q. Were you asked any questions about his groin before?

Christolon
A. Yes, Sergeant Hamilton asked me about that.

Nemeth
Q. Okay. Speaking of witnesses, did you see any, any inmates in the module when you arrived in 4400 that night that might have been in a position to witness the incident?

Christolon
A. I seem to remember there were some inmates in the Baker shower.

Nemeth
Q. More than one?

Christolon
A. One, definitely. I want to say more, but I'm not really sure.

Nemeth
Q. Can you describe that individual?

Christolon
A. No, I just remember seeing somebody walking around with an orange shirt in the showers. It sticks out pretty good in the shower.

Nemeth
Q. Okay. Do you know his race?

Christolon
A. No, I don't.

Nemeth
Q. Do you know why he was in the shower at 12:30 or one?

Christolon
A. I can, I can only assume that he was a fish, waiting to get housed.

Nemeth
Q. Alright, you never learned afterwards, why, what that guy was doing in the shower?

Christolon
A. No.

Nemeth
Q. Okay. Would there be any other reasons why an inmate would be in the shower at 12:30, 1, in the morning, besides being a newly classified or...

Christolon
A. Sometimes, on our floor, if there's a transfer line, and they're pulling transfer lines or passes, they hold them in the shower till they move 'em. Sometime, if somebody's having a problem in his cell, and you're trying to figure out what's going on, you put them in there. Like I said, the fish are just maybe transfers to somewhere else.

Nemeth
Q. Yeah. What was that inmate's position in the shower when you saw him, in other words, where was he in the shower?

Christolon
A. Right, right. I just remember seeing the orange shirt walking around in there. So something, there was, there was somebody in an orange shirt walking around in the shower. I would have to say that he was probably further back in the shower, down the row, down on the row end, where the gate opens up on the row, or else I probably would have recognized more about him if he would have been standing there, facing me, 'cause he would have been on the other side of injured inmate.

Nemeth
Q. Okay, did you hear anybody tell that inmate in the shower to turn around and face the wall?

Christolon
A. No, I don't remember that.

Nemeth
Q. Okay. Did you hear anyone tell [redacted], the black inmate, on the floor to, "Shut up, asshole?"

Christolon
A. No, I don't remember that. I remember asking him if he was okay, too, somebody was asking him, I probably asked him myself if he was bleeding.

Nemeth
Q. Uh-huh.

Christolon
A. I don't remember anybody saying, "Shut up, asshole."

Nemeth
Q. Was the inmate on the floor kind of babbling about something?

Christolon
A. Yeah, he was babbling, which was, I was kind of amused, not the fact that he was hurt, but he was, for some reason, I want to say he was something about he thought the deputies that were there had saved him, and everybody was like, he had said something else about being in a gang fight, down the row, it was something that was kind of, it was amusing that he was saying it, because, I mean, there wasn't a gang fight down the row.

Nemeth
Q. It was completely contradictory to everything you knew to be...

Christolon
A. Right.

Nemeth
Q. ...the facts, right?

Christolon
A. Right.

Nemeth
Q. Did anybody check with the guy who was in the shower that you know of?

Christolon
A. I don't know if anybody checked with him or not.

Nemeth
Q. As to, as to ask him what he saw, if anything?

Christolon
A. I, I don't know.

Nemeth
Q. Okay. No, it wasn't done in your presence, though, is that right?

Christolon
A. No, it wasn't done in my presence.

Nemeth
Q. Okay, and then you, you relieved the module, so you were there for most of the night, you said, right?

Christolon
A. Right. I was there pretty late after that, waiting for everybody to get back and get everything all in line on their own paper work.

Nemeth
Q. What happened to the guy in the shower?

Christolon
A. I don't remember if he stayed in the shower, or if somebody came and got him, or...

Nemeth
Q. You don't remember?

Christolon
A. No, because there were people even when I was doing relief, were coming in and out, and doing stuff, and walking up and down the row, and...

Nemeth
Q. Okay, alright. Now, since you've, you know this all happened about a year ago now...

Christolon
A. Right.

Nemeth
Q. ...have you had an opportunity to talk to [redacted], Sloan, Kluth or [redacted] since they've been [redacted]?

Christolon
A. I've talked to [redacted].

Nemeth
Q. To [redacted]?

Christolon
A. Yes.

Nemeth
Q. Are you friends with [redacted]?

Christolon
A. Yeah, I am.

Nemeth
Q. And, when's the last time you talked [redacted]?

Christolon
A. He called right before his academy class graduated to tell me if I was gonna go, that, for me to call him or tell him when I knew so I could sit next to him, because one of the CA's that graduated from here was there.

Nemeth
Q. A person who was a former CA here graduated as a deputy last Friday?

Christolon
A. Right, the last academy class.

Nemeth
Q. And, Kluth telephoned you?

Christolon
A. Not Kluth...

Nemeth
Q. I mean...

Christolon
A. ...it was Deputy [redacted].

Nemeth
Q. ...[redacted] telephoned you, to see if you were gonna go to the graduation.

Christolon
A. Yeah, but I don't remember, I think it was at least three weeks before graduation.

Nemeth
Q. Okay, and the graduation referring to is the one last Friday?

Christolon
A. This past one, correct.

Nemeth
Q. And, did he telephone you at home?

Christolon
A. He's phoned me at home, and I think he called me here once to find out if anybody else was going.

Nemeth
Q. Okay. Did the conversation of, of this incident come up at all?

Christolon
A. Not that phone call, no.

Nemeth
Q. Has it come up in past phone calls?

Christolon
A. Well, I generally ask him how are things going, stuff like that, just so he knows I'm not like sitting there, going, "Well, you know, to hell with him, whatever, he's under investigation."

Nemeth
Q. Okay, and aside from just, you know, reassuring him that you're still his friend, and you're supporting him, have you discussed the case?

Christolon
A. We don't, we don't discuss what happened that day, but like everybody knew the D.A. was considering filing, so I would ask him, "Well, did the D.A. file or not?" He either said yes or no, or you know, "That's, that's about all I can talk about right now, I can't really say anything." And then, one time, he called, or I called him, whatever, he did tell me the D.A. hadn't filed. You know, I just kind of asked him, "When do you think it's all be gonna wrapped up?" And he generally says he doesn't know.

Nemeth
Q. Okay, and is that why, when you first came in for this interview, you made some comment about the D.A. hadn't filed charges or...

Christolon
A. Right, I had already known the D.A. hadn't filed charges.

Nemeth
Q. And, that's how you knew, you just described to me...

Christolon
A. Right.

Nemeth
Q. ...right?

Christolon
A. Right.

Nemeth
Q. Okay. Have, has [redacted] ever told you what to say in this case, or what not to say...

Christolon
A. No.

Nemeth
Q. ...when you're interviewed?

Christolon
A. Like he knows if he did it, I'm gonna tell what I saw, anyway.
Nemeth
Q. Okay. Now, we talked about how you learned later that other people had been in that module ahead of you. I think we were getting to the point of you were gonna tell me who they were.

Christolon
A. Well, I don't really know who they were, and I don't know who I heard it from, it's just you hear things later that, you know, people are either walking by, or took off...

Nemeth
Q. Uh-huh.

Christolon
A. ...or didn't even go in, like I said, sometimes, I'll hear a 415 call, and I'll go, and you, you get to the door of the module, and you see everybody just kind of standing around, you're like, "Ah, it's over..."

Nemeth
Q. Uh-huh.

Christolon
A. ...and you leave, so...

Nemeth
Q. Okay. I notice you don't have a radio on you tonight.

Christolon
A. Well, that's because I'm acting senior tonight.

Nemeth
Q. Do you normally have a radio when you're working the 43, 44 prowl?

Christolon
A. When I prowl, I always carry a radio.

Nemeth

Q. Did you have one that night?

Christolon
A. Yes, I did.

Nemeth
Q. Okay.

Christolon
A. I couldn't tell you if the battery worked or not.

Nemeth
Q. Okay. Did your partner, [redacted] have a radio that night?

Christolon
A. He generally carries, yeah, he carries a radio, too, so I would assume he did, and if he didn't we heard the radio call, there's other people in the ODR wearing radios.

Nemeth
Q. And that's how you were notified of this right...

Christolon
A. Right.

Nemeth
Q. ...by radio call. And did you hear it on both your radios, did you both have your radios on?

Christolon
A. I just remember hearing it on the radio, like I said, half the times the batteries don't even work, or they're only charged, they only last for an hour and you're walking around and you get broken up stuff, so.

Nemeth
Q. Okay, alright, but there were other radios down there that you heard?

Christolon
A. Right, right.

Nemeth
Q. Did you hear any call 415, deputies involved, go out on the radio?

Christolon
A. I never heard a 415 go out on the radio?

Nemeth

Q. Did you hear a 415, deputies involved, go out on a P.A. system?

Christolon
A. I never heard that either.

Nemeth
Q. What's the normal way you learn of a 415 deputies involved?

Christolon
A. Usually comes out over the radio, or P.A. depending on where you are if it happens first. If the 415's on your particular floor, sometime it comes out on the P.A. Sometimes, you don't know unless you're walking by, because people around are involved, can't get it out on the radio because they're involved.

Nemeth
Q. Uh-huh.

Christolon
A. Sometimes you're walking down the hallway, you hear it on the radio, like sometimes my radio's dead, I hear it on somebody else's radio, and I just take off in the direction, wherever they say it's going on. So, either the P.A. or the radio, sometimes, once it gets going, then you hear it every two seconds, somebody's saying it on one or the other until somebody (inaudible) 415.

Nemeth
Q. Right. But, in this case, that didn't happen, did it?

Christolon
A. No, I don't, I don't remember hearing it on the radio, if I had heard it on the radio, or the P.A. I would have been going in already.

Nemeth
Q. Right. And, so, to your knowledge, it never went out either of those normal channels, correct?

Christolon
A. Not as far as I know.

Nemeth
Q. Okay. And, same thing for [redacted], right, 'cause you both work that floor, that's, that's both of your floors, that's your, your responsibility, yours and [redacted] right?

Christolon
A. Oh, if he heard it, I assumed he would have been running too, he would have been running, (inaudible).

Nemeth
Q. Exactly. Now, [redacted] and [redacted], you know what their assignments were that night?

Christolon
A. Somewhere on 5000.

Nemeth
Q. And, in your casual conversations with [redacted], did it ever come up how he learned of this event?

Christolon
A. No.

Nemeth
Q. Never did?

Christolon
A. No, it never did, because standard practice for four and five is, if both of the 4000 prowlers are gone, that 5000 covers. I don't know if they were walking by, or if they got a call, or what happened, but generally somebody from 5000, because we're staffed so short on earlies, and when we do chow breaks, a lot of times there's only one person from either floor to cover both floors, so I don't, I'm not sure, but I knew they working five, so that they may have been covering because we were both gone at the time.

Nemeth
Q. Well, actually it was, you guys left together, but the senior was already gone ahead of you, right?

Christolon
A. Right.

Nemeth
Q. So you met him, and now, there's three people from 4000 were gone.

Christolon
A. Right. Well, that happens all the time...

Nemeth
Q. Right, no problem.

Christolon
A. ...(inaudible).

Nemeth
Q. Okay, don't read into the question. The, the thing I wanted to ask you, is before you went, did somebody relieve you, did one of those two relieve you, [redacted], or, or [redacted]?

Christolon
A. Well, what will happen, is in that standard practice, they'll stay on five, and then if they're needed, they're called, because if they come down to relieve us, then there's nobody on five.

Nemeth
Q. Right.

Christolon
A. So, you can stay on the floor you're on, and then just go up or down if something's going on.

Nemeth
Q. Okay, so the answer is, no.

Christolon
A. No, I didn't get relieved.

Nemeth
Q. Okay. Did you call [redacted] or [redacted]...

Christolon
A. No, I didn't, no.

Nemeth
Q. ...yourself, and tell them you were going to lunch?

Christolon
A. No, because, like I said, that night, we may have been going down just to pick up a plate and come back upstairs.

Nemeth
Q. I understand that. Just needed a yes or no.

Christolon
A. No, I know.

Nemeth
Q. Okay, did [redacted], to your knowledge, call up there and tell either [redacted] or [redacted] that you guys were going away...

Christolon
A. I don't know.

Nemeth
Q. ...for any length of time?

Christolon
A. I don't know.

Nemeth
Q. To your knowledge?

Christolon
A. To my knowledge, no.

Nemeth
Q. Alright, so do you know how they were notified?

Christolon
A. No, I don't. Like I said before, I don't know if they were walking by, or if they got a phone call, or...

Nemeth
Q. You don't know...

Christolon
A. Right.

Nemeth
Q. ...right?

Christolon
A. Right.

Nemeth
Q. And [redacted] never told you in all these months, in fact, it's been over a year now...

Christolon
A. We don't even really discuss the details.

Nemeth
Q. But, even that night, before this thing became a big hoopla, and people were [redacted], you never talked to him, and said, "Hey, man, this is my, how'd you, what, what went on, nothing came on the radio, nothing came on the P.A., what's going on?"

Christolon
A. He was there, I knew those guys covered, so, I mean, it's not like it was anything out of the ordinary. There's been times when from 4000 we go up there and help out, or cover stuff that's going on there, go back and count on nine, it's not really that big a deal as long as anybody picks it up.

Nemeth
Q. Do you know where Sergeant Mosely was before he responded to the fight...

Christolon
A. No, I don't.

Nemeth
Q. ...location area?

Christolon
A. No.

Nemeth
Q. And, so, you're telling me, even to this date, as we sit here now, you have no idea who those, who those other deputies were that showed up there?

Christolon
A. No. Like I said, that's just stuff I heard, they were like, didn't know if people went in or walked by, coming in or out.

Nemeth
Q. Well, did you, you work 4000, right?

Christolon
A. Right.

Nemeth
Q. And you're a prowler there right? Do you, do you typically find yourself in the 4000 control booth at different periods in the night?

Christolon
A. If I'm not doing reliefs.

Nemeth
Q. Okay. Did you ever talk to the booth officer that night, who was...

Christolon
A. I was in 44 almost the rest of the night.

Nemeth
Q. Okay, or any other night...

Christolon
A. Right.

Nemeth
Q. ...thereafter.

Christolon
A. To me, it was just another thing that happened, I was just like you know, it will, everybody filled out their paperwork, go on about business, taking care of the inmates, and title 15, and everything else, every other matter.

Nemeth
Q. So, in other words, you, you never talked about it to Deputy Howard?

Christolon
A. Not really, she was in the booth, but, if anything she called us, she saw us go over there, and there's not a whole lot of information you can get from her by asking, you know, "What happened, who called?" "I called you guys, you came up."

Nemeth
Q. So, she's gonna tell me that she didn't talk to you and tell you about, you know, how these other people got there ahead of you and stuff like that?

Christolon
A. I don't know what she's gonna tell you.

Nemeth
Q. Well...

Christolon
A. Well, that's...

Nemeth
Q. If you're telling me the truth.

Christolon
A. Right, well, no, even if I'm telling you the truth, and I am, I mean she may have told me, I don't know. I may have just been like, "Yeah, okay, whatever."

Nemeth
Q. She may had told you, but...

Christolon
A. No.

Nemeth
Q. ...but you might have forgot, is that what you're saying?

Christolon
A. I don't know what she told me that night, I don't remember what she told me.

Nemeth
Q. Okay.

Christolon
A. Like I said, I was in 44 most of the night after that, so.

Nemeth
Q. Okay, but not just that night, could be the next day, even after you come back from your RDO.

Christolon
A. I don't know.

Nemeth
Q. So, did everybody kind of just forget about this afterwards, nobody talked about it?

Christolon
A. No, I'm sure some people did. It wasn't a big deal to me, it was just another guy who had to get restrained and got handcuffed.

Nemeth
Q. Okay, it's a pretty common occurrence, what happened there, on, on early morning shift?

Christolon
A. It, it's not common, but I mean, it's a jail environment, things like that happen once in a while. It's not that big a deal, it's just part of work, it's just a job.

Nemeth
Q. Okay, so she might have told you, Deputy Howard might have told you who came there, but you don't remember. I just want to make sure...

Christolon
A. No.

Nemeth
Q. ...I got you right.

Christolon
A. Yeah, no, I'm just saying like, like I said, later on I heard, you hear all the things all the time, I mean you guys hear things all the time, too.

Nemeth
Q. That's what I'm here to talk to you about...

Christolon
A. Right, that's what I mean is...

Nemeth
Q. ...I want you to tell me.

Christolon
A. I don't know who, I mean I just heard like oh, maybe people were walking by...

Nemeth
Q. Well, that's fine.

Christolon
A. ...I don't know, but nobody said anything.

Nemeth
Q. ...I don't want you to worry about it, Robert, we have a series of names of people that showed up already.

Christolon
A. Right.

Nemeth
Q. All I want you to do is tell me who you heard showed up...

Christolon
A. Right. (inaudible).

Nemeth
Q. ...I don't care how they got there, they were just walking by or whatever, I want you to tell me who you later heard showed up there and was gone by the time you got there.

Christolon
A. That's what I'm saying, I don't remember, I mean, you guys, you got the transcripts from the first time I talked. If I said I remembered then, I remember, I just don't remember now. I just don't even, you know, this was an incident happened, that was it, it didn't really involve me other than the fact that I came in late, I wasn't worried about it.

Nemeth
Q. But, it was your floor, wasn't it?

Christolon
A. Yeah, it was my floor.

Nemeth
Q. It could have been your area for responsibility.

Christolon
A. We cover on each other's floors, and that night they just happened to have to come down and cover. Like I've been up there for cover for things on their floor before, 415's, 242's, whatever. That's just the way it is.

Nemeth
Q. Uh-huh. Okay, did you, did you ever read any of the reports that were submitted in connection with this incident?

Christolon
A. I don't remember reading them, if I did, I probably would have photocopied them, because I'm sure my name is in there somewhere that I came in, and generally, if I think it's worth even reading, I photocopy it. Like I said, I keep a notebook of most of my reports, or anything that I'm mentioned that, that I know I'm mentioned in.

Nemeth
Q. Okay.

Christolon
A. Photocopy it, so I have...

Nemeth
Q. Do you have a photocopy of any of these things?

Christolon
A. No, I don't.

Nemeth
Q. Not with you, do you...

Christolon
A. No, not at all.

Nemeth
Q. Not at all, right?

Christolon
A. No, because I put them all in my red notebook, and I have that here with me.

Nemeth
Q. And this isn't one of those things?

Christolon
A. I know it's not in there, sir.

Nemeth
Q. Okay, and how do you know it's not in there?

Christolon
A. Because I have 49's, inmate injuries, I don't remember seeing a use of force anywhere in there. Most of the stuff has my name on it, except for, a suicide and a robbery that I helped do the line-ups for investigations on.

Nemeth
Q. Well, bottom line, is you know this isn't there, 'cause you've looked for it, and it's not there, correct?

Christolon
A. Well, not that I've looked for it, but I routinely go to my notebook, and I don't remember this report being in there. I mean, if you want, I can go up and get it and bring it down.

Nemeth
Q. Well, that's not necessary if you tell me you're sure it's not there...

Christolon
A. Yeah, I'm sure...

Nemeth
Q. ...it's not there.

Christolon
A. ...it's not there.

Nemeth
Q. And that's because you've looked on the 27th of '94 and there's nothing there for, for, for that date that has your name on it right, you don't have any xerox...

Christolon
A. well, there's...

Nemeth
Q. ...copies, nothing?

Christolon
A. (inaudible) pertaining to this incident, I know most of the things, and there's not, I would assume that there hasn't been a report written on a peace, battery on a peace officer, and the only one that I have of those is one that I wrote, for an incident that happened in 4300.

Nemeth
Q. Which has nothing with this, right?

Christolon
A. Which has nothing to do with this.

Nemeth
Q. Okay, so, I guess, what I'm back to the question is, did you read the reports...

Christolon
A. No, I didn't.

Nemeth
Q. ...use of force forms or anything connected with this case?

Christolon
A. No, I didn't.

Nemeth
Q. Okay, and you say you always have things that, that you make photocopies of, documents, reports, use of force, warrants...

Christolon
A. Right.

Nemeth
Q. ...that list your name, correct, and you keep them in your redbook.

Christolon
A. If, if I've seen it, correct.

Nemeth
Q. Okay. Have you seen your name in this case...

Christolon
A. No, I haven't...

Nemeth
Q. ...in the report?

Christolon
A. ...no, I haven't seen my name on anything.

Nemeth
Q. Okay. Are you aware that your name is not mentioned anywhere in...

Christolon
A. I...

Nemeth
Q. ...any of the use of force forms...

Christolon
A. No.

Nemeth
Q. ...any of the inmate injury forms, or anything?

Christolon
A. I, I didn't know that, I didn't know if my name was, or wasn't.

Nemeth
Q. Uh-huh. Well, I think what we just kind of established was you know that you make a habit of photocopying reports where you're mentioned in...

Christolon
A. Correct.

Nemeth
Q. ...and you have a, a book where you keep entries of events that you're involved in, correct?

Christolon
A. Well, it's the same notebook that I have to photocopy. That's what it is, is, anything I write, like I said, there's ones that I've been involved in, if I know I'm in it, and I read it, I keep it.

Nemeth
Q. How, how do you know you're involved in something to get it?

Christolon
A. I usually read it, and if I read it, and my name's in it, I keep it, but I don't even remember reading anything on this. I mean, it didn't really involve me.

Nemeth
Q. Okay.

Christolon
A. Like I said, I didn't escort, I don't remember escorting anybody...

Nemeth
Q. Uh-huh.

Christolon
A. ...I don't remember writing an inmate injury, I don't even remember doing anything but other than going in there, "Oh, you okay, are you okay, and is he okay, what happened?" Somebody had to go change their shirt. I relieved the module, people are running around, doing their thing, and I housed other fish probably that came in during the night, or whatever.

Nemeth
Q. Alright, and that's because there's a, I think you've already said on tape, you got there, your estimation is it was over, the

inmate was secured, you didn't see anybody use any force on the inmate, you, personally, did not touch the inmate, you said, therefore, there's not ness, necessity for you to write anything, right?

Christolon
A. Right.

Nemeth
Q. Or report anything, right?

Christolon
A. Right. Well, the Sergeant and the senior were both there when everything was going on after that, so, I'm sure if I did, like if I made a mistake, or I should have reported it, and I didn't, I would have been told.

Nemeth
Q. Okay. So, did you see anybody else there besides [redacted], [redacted], Sloan, Kluth, [redacted], Senior Jackson, and Sergeant Mosely? You see any other sworn personnel in that module?

Christolon
A. You mean after the fact? After we got there? I remember there were clinic deputies that came up with the gurney, but that was just to take...

Nemeth
Q. Right.

Christolon
A. ...take the inmate down.

Nemeth
Q. Okay, anybody else besides that?

Christolon
A. Not that I remember. I mean people may have come in, to help move him or whatever, but I don't remember that.

Nemeth
Q. Okay, did you see anybody use any force on this inmate at all while you were there?

Christolon
A. No.

Nemeth
Q. Is that because he was already handcuffed?

Christolon
A. He was laying there, just kind of like, I said babbling.

Nemeth
Q. Okay. Was he hostile at that point?

Christolon
A. No, just kind of laying there, babbling. I think he yelled a couple times, but that was it.

Nemeth
Q. Okay. Do you know who came up from the hospital?

Christolon
A. I don't remember who the deputies were, I think I knew when Sergeant Hamilton asked me, I just can't remember who came up that night.

Gjendem
Q. Yeah, I've got a couple of questions for you.

Christolon
A. Alright.

Gjendem
Q. A little while ago, you said you don't remember the guy that was in the, the Baker row shower?

Christolon
A. Right.

Gjendem
Q. You said there was somebody there, but you didn't know who it was?

Christolon
A. Right.

Gjendem
Q. I'd like to go back to your original transcript with Sergeant Hamilton back on December 19, 1994...

Christolon
A. Right.

Gjendem
Q. And, on page 10, Sergeant Hamilton asked you a question here, and it says, question, "Okay, did you notice an inmate in a storage room when you walked in?" Christolon, "No I didn't, I just remember the guy in the shower." Hamilton, "Okay, what did he look like?" Christolon, "The guy in the shower?" Hamilton: "Yeah."

Christolon: "Male, white, sandy blond hair, I remember him being a smaller build maybe 5'7" to 5'10", light build."

Christolon
A. Then, I guess that was the guy in the shower. I just said I saw the guy in there, I just don't remember we're talking almost a year later from that.

Gjendem
Q. I just wanted to...

Christolon
A. Right, no, I'm not denying I said that, that's fine, I mean that's why we have transcripts and reports. So we can...

Nemeth
Q. We're not, we're not trying to accuse you of not remembering stuff, we're just trying to, by virtue of reading that in the record...

Christolon
A. Right.

Nemeth
Q. Is to try and jog your memory...

Christolon
A. No, no that's...

Nemeth
Q. to see if you can...

Christolon
A. ...that's fine.

Nemeth
Q. ...expound on that.

Christolon
A. You guys, you guys just know this is a little paranoia, you know, even if you don't do things wrong, like your deputies are getting pulled over by a cop, and you're sitting there going, "Oh, what the hell did I do wrong? It's generally the way most people are when somebody of authority comes in...

Nemeth
Q. But, we never get pulled get over, we don't break traffic laws.

Christolon
A. Okay. Sorry, bad assumption.

Nemeth
Q. Let's get back...

Christolon
A. Alright.

Nemeth
Q. ...in the questions.

Gjendem
Q. If, the senior and the two prowlers from the fourth floor went down to eat, who did you say would generally pick up the slack?

Christolon
A. Generally a 5000 prowler, or someone from five will cover the floor. The booth person knows to call up there if something goes on.

Gjendem
Q. And, did you say also somebody else might come up?

Christolon
A. Well, I mean, if it goes out over the radio as a 415, generally everybody who's not doing anything, is (inaudible).

Gjendem
Q. But this one was kind of like after the fact.

Christolon
A. Right.

Gjendem
Q. (Inaudible).

Christolon
A. Yeah, as far as I knew, yes.

Gjendem
Q. Okay.

Nemeth
Q. Okay, this is tape two of Deputy Christolon's interview under IAB case number 008383. Sergeant Gjendem.

Gjendem
Q. Yeah, little while ago you were asked a question, about if you later learned and found out that somebody came down to the...

Christolon
A. Right.

Gjendem
Q. ...4400, before you arrived there, and left.

Christolon
A. Correct.

Gjendem
Q. And, I think the, what you gave was, "they had come down, but," meaning what?

Christolon
A. I just meant somebody else was there, I don't know if they were there at the time of the incident, or if they walked in, walked out, like I said, I'm not sure, it doesn't specifically mean anything other than the fact that I had heard that other deputies had come in or out and walked by.

Gjendem
Q. But, when you're talking about, "they had come down...."

Christolon
A. I...

Gjendem
Q. ...were you thinking...

Christolon
A. ...just the way I phrase it.

Gjendem
Q. ...they came from, from upstairs, then, down to...

Christolon
A. I may have been, it's, or it's just a term that, they got there, they came down. Generally, I'll come to 4000 you got to come down with the bottom floor on the new side, that's just kind of a maybe generic term, where I'm going, they came down, I don't know if anybody came up or not.

Gjendem
Q. So, make sure I understand you right. Even today, you still don't know.

Christolon
A. Yeah, I don't know who it was, like I said, I just heard through the grapevine that other people had walked by.

Gjendem
Q. You never asked anybody who it was?

Christolon
A. No. People walk by all the time when stuff's going on, come down, so it doesn't matter to me, really, you know.

Gjendem
Q. Were you trying to disassociate yourself from this incident?

Christolon
A. No, not all, because as far as I knew that night, the incident was over, it wasn't a big deal, and the sergeant knew about it, the watch commander knew about it, and everybody, I mean, it was kind of a shock when we found out that those guys actually got [redacted] because we thought it was a done deal anyway, when we thought it was over and done with.

Gjendem
Q. The question I have for you, Robert, is, and, and this is just something of common sense that I, that, see, I anticipate I try to anticipate the questions that the chief...

Christolon
A. Is going to ask you (inaudible).

Gjendem
Q. ...and the commanders are going to ask me and listen to the tapes, and read your transcripts, and they're gonna say, well, I think they're gonna say, you know, how come, maybe you did, did you ever ask Deputy Howard, "How come you didn't," you know, "tell us, on the radio, 415, deputies involved?" Well, how did that ever happen? How did this event happen, you see people streaming in, or whatever, somebody, we know at least two, right, [redacted], and...

Christolon
A. [redacted].

Gjendem
Q. ...[redacted], ran into that module.

Christolon
A. Right.

Gjendem
Q. "How come you didn't put it out?"

Christolon
A. Well, I don't know...

Gjendem
Q. "What's going on up there?"

Christolon
A. ...I don't know, if they ran in, or if they walked in or what was going on, I don't know what the urgency of the situation was when she finally got us on the, on the radio, and was...

Gjendem
Q. No, I'm not talking about when she got you...

Christolon
A. Right.

Gjendem
Q. ...on the radio, I'm talking about when this event's going down, do you normally walk to a deputy being strangled by an inmate call?

Christolon
A. Oh, I didn't know he was being strangled.

Gjendem
Q. No, no, no, I'm not...

Christolon
A. Oh, okay.

Gjendem
Q. ...I'm not saying that you knew at the time...

Christolon
A. Right.

Gjendem
Q. ...I'm saying let's say you get a call of a deputy involved in a fight, and an inmate strangling him, would you walk to that?

Christolon
A. No, I'd run (inaudible).

Gjendem
Q. Okay, alright, that's probably a fair assumption right?

Christolon
A. Right.

Gjendem
Q. It's probably a fair assumption that [redacted] and [redacted] ran in that module, too, correct? Is it your understanding at that point that Sloan's in the booth, and Kluth is outside being strangled by the inmate. Sloan can't leave the booth because he has to stay in that secure area, is that correct?

Christolon
A. Right.

Gjendem
Q. Is that, is that, what your understanding of how this event occurred?

Christolon
A. Right. Kluth went out to talk to the inmate...

Gjendem
Q. So, right now, it's...

Christolon
A. (inaudible) got in a choke hold.

Gjendem
Q. Okay, so one on one, right, at this point? So that means he's one-on-one and Sloan's stuck in that booth, can't go out to do anything for him, so it's is it a fair assumption that, that [redacted] and [redacted] ran in there?

Christolon
A. Right.

Gjendem
Q. At that point, it's one-on-one, right?

Christolon
A. Right.

Gjendem
Q. And, and the booth deputy, has gotta see that happening, correct?

Christolon
A. Right.

Gjendem
Q. I mean, based on where that person sits and everything else, and how they look down the hallway, did you have a little heart to heart chat with her, saying, "Hey, how come I didn't get no, how come you didn't put it out...."

Christolon
A. No.

Gjendem
Q. This is a potentially life threatening situation, wouldn't you agree?

Christolon
A. She knew what was going on...

Gjendem
Q. An inmate choking a deputy?

Christolon
A. ...she may have put it out, like I said...

Gjendem
Q. My question is to you, did you ever, ask her, "What did you do, how come it didn't go out on the all call, how come it didn't go on the radios, like it always does?"

Christolon
A. Like I said, I was doing relief in 44, I didn't have any time to talk to her right afterwards?

Gjendem
Q. Or anytime afterwards.

Christolon
A. No, I never...

Gjendem
Q. This is a...

Christolon
A. ...I don't remember asking her.

Gjendem
Q. ...okay, this is a person you work with regularly...

Christolon
A. Right.

Gjendem
Q. Correct?

Christolon
A. Right, but she's squared away. She may have put it out, I may not have just heard it. Like I said, half the time the batteries are dead on the radios, we could have been on our way down to the ODR when it was put out, and then she calls...

Gjendem
Q. I know, but all these...

Christolon
A. You're asking me the question, why I didn't ask her?

Gjendem
Q. Uh-huh.

Christolon
A. I didn't ask her. I probably just assumed she did. I know Deputy Howard, she's squared away, whatever, I didn't hear it, it doesn't mean it didn't go out...

Gjendem
Q. But, see, you're making all these assumptions, well maybe the radio (inaudible) this and that...

Christolon
A. Well, you just asked me to make assumptions that they were running in there and everything else. If we're all gonna ask each other to make assumptions...

Gjendem
Q. Well, what I'm saying is, why didn't you ask her, you say, well, because maybe the radio, that's why you didn't ask her, 'cause you just assumed...

Christolon
A. I don't know why I didn't ask her.

Gjendem
Q. ...all these possibilities?

Christolon
A. Maybe I did ask her, maybe I did, maybe I did, I don't remember it.

Gjendem
Q. Oh, so, now it's possible you asked her, but if you did, you don't remember what she said.

Christolon
A. No, it's the same thing as I said before, you didn't ask me before if I asked her or not, you just asked me that now.

Gjendem
Q. Right.

Christolon
A. I don't know if I asked her if she put it out or not. I don't recall.

Gjendem
Q. Okay, what you said was, maybe I asked her and I don't remember what she said.

Christolon
A. Right. But, I don't think I asked her.

Gjendem
Q. You don't think you ever asked her?

Christolon
A. No.

Gjendem
Q. And, I guess what I'm just trying to anticipate somebody listening to this conversation, is gonna say, is, you know, why not?

Christolon
A. Well, if I'm making relief most of the day, and then I get out there, get out of there, I'm done making a relief, I got other things to do. I'm probably back in chow in the hallway. It's not like there's nothing going on here on early mornings like most people assume, there are things going on, things that need to be done. I was probably just was like, "Well, no sense in asking her." Maybe I did ask her, maybe I did, I don't know, if I didn't ask her, maybe I thought somebody else was gonna ask her. She, she, has her, she knows what she's doing, she's squared away, so.

Gjendem
Q. Okay, is it your memory that you asked her or know you don't remember?

Christolon
A. I don't, I don't remember if I did or didn't, I would say right now I don't remember asking her, I don't remember asking her.
Gjendem
Q. Well, I'm not, I'm not putting down early morning Central Jail...

Christolon
A. No, no, no.

Gjendem
Q. I'm just saying that--just from a--just from a, you know a person's experience having worked this jail myself at some point, I'm just wondering that it wouldn't have come up at casual, at least casual conversation. (inaudible) Just as an--just from an officer's safety standpoint, say, "You know what, you're a good person and I have no problem with you, you're squared away, but you know, just for future reference, you know, if you see a fight like that going down, you see deputies (inaudible), you know, get it out, call main control. If the radio is not working, put it out on the all call for 4,000 and call main control and have them put it out on the radios and the out call for the jail." Just from an

officer's safety standpoint I would think I would be having that conversation with that person. You didn't have that conversation with her, though, is what you're saying?

Christolon
A. No--

Gjendem
Q. --Or you don't remember if you did?

Christolon
A. --Not that I remember. The totality of the circumstance was the inmate was handcuffed, he was there when I walked in, everything was okay. I asked the deputies, they were okay. That was it, it was handled. It was handled, it was done.

Nemeth
Q. Okay. Is there anything you want to add, Robert, at this point? We've, we've asked you the questions that we feel is pertinent. Now here's your opportunity if you know of something that we haven't asked that you feel is important or relevant to the case, this is your chance to put it on the record.

Christolon
A. No. You guys asked all the questions. That's pretty much it. I wish you guys would have asked me earlier. Sergeant Hamilton asked me, you got the transcripts there. So...

Nemeth
Q. Okay. The thing I want to draw your attention to is the form you signed when you--we started this interview. It has a--it has a clause on the bottom in bold here. It's where you affixed your initials. It says, you're being ordered not to discuss the facts of this case or any issues discussed during this interview with anyone. Okay. And since you don't have a representative in this matter, because you're a witness, that means you're not suppose to discuss it with anybody.

Christolon
A. Right.

Nemeth
Q. And by that, that means any discussion of the facts that we talked about, anything, nothing whatsoever. That includes anybody here at Central Jail as well as any of the subjects in this case or any other people being interviewed in this case. Okay?

Christolon
A. Okay.

Nemeth

Q. And I realize that you and [redacted] work together, but he has the same admonition under him and he's basically been ordered the same way you're being ordered. So, you can't compare notes--

Christolon
A. --Right--

Nemeth
Q. --In other words.--

Christolon
A. --That's fine.

Nemeth
Q. Okay. Just keep it under your hat, that's just the way it is. It's a confidential personnel investigation and that's the way it has to be. Okay?

Christolon
A. No problem. That's fine.

Nemeth
Q. Okay. Do you have anything you want to add, any comment?

Christolon
A. On the testicle thing, just from my standpoint. When it was--it seemed to have been an issue with the other interview. And if it had happened here, in my own opinion, and I'm not a doctor, but being a guy, he was not screaming about any pain like that whatsoever. If that had happened right then, I can't see how he wouldn't have been. And he was--like I said, he was looking at us babbling and stuff, so he was conscious, he would have felt the pain. That's, that's the only thing I can add here.

Nemeth
Q. Okay.

Christolon
A. Because nobody asked about that this time, but Sergeant Hamilton had asked me about that the first time.

Nemeth
Q. Right. We have that in the prior transcripts, that's part of the reason we didn't go into it, but, but since you bring it up, let me ask you a couple of questions.

Christolon
A. Sure.

Nemeth

Q. Is it your impression that this inmate was somewhat mentally disturbed?

Christolon
A. He could have been. At that time I would say, probably yeah, if was talking about he had just been in a gang fight or whatever down the row. That probably had me thinking he was a mental observation or anybody on that floor could have been. It's 4,000 floor. A lot of the pill call people that just get de-classed for mental observation. While they're on psyche meds.

Nemeth
Q. Okay. All right. How, how long have you worked with mental observation patients here?

Christolon
A. I've been on 4 and 5 ever since I started earlies and I'm going on five years of earlies. So either--on those floors--even if I was assigned the 5, a lot of time he'd come down and help pick-up mental observation people from the clinic and stuff. So...

Nemeth
Q. Were you guys here in August of '91?

Christolon
A. Right.

Nemeth
Q. Right?

Christolon
A. Then I was on training for six weeks.

Nemeth
Q. Okay so August of '91 to now is four years and three months, right?

Christolon
A. Right. So now I'm starting my fifth year working 4 and 5 on earlies. So, I've been working--in the beginning I worked 5 more and in the last two or two and a half years I've been on 4,000 the whole time.

Nemeth
Q. Okay. So you have some experience working with mental people?

Christolon
A. Right.

Nemeth

Q. Okay. And in your experience it is--do they--are they extremely receptive to pain?

Christolon
A. Well, they never seem to have a problem telling me when they are in pain and they need to go to the clinic.

Nemeth
Q. Have you ever had to use force on a mental observation patient?

Christolon
A. I've had one use of force, yes.

Nemeth
Q. Okay. And in your experience with mental observation patients, do they typically and immediately respond to pain compliance holds?

Christolon
A. Oh, I generally don't have to use too much. I got all day to be here, I'll sit there and talk to the guy for 15 or 20 minutes.

Nemeth
Q. Okay. All right.

Christolon
A. Yeah, that's...

Nemeth
Q. Okay. The other thing is, did any--did you see anybody touch his testicles? I think I've already asked that one.

Christolon
A. No. I didn't see anybody touch him. Unless, well somebody had to pick him up to put him on the gurney, so yeah, I probably saw them to that, but...

Nemeth
Q. Did they touch his testicles when they did that?

Christolon
A. No.

Nemeth
Q. Okay.

Christolon
A. I think I would have remembered seeing him do something like that.

Nemeth
Q. Okay. So you never saw him complain about his testicles?

Christolon
A. No he was never complaining about that at all.

Nemeth
Q. Okay. Okay, anything else?

Christolon
A. No that's else.

Nemeth
Q. Okay. We'll conclude the interview time as 0147 hours.

END OF INTERVIEW

ADMINISTRATIVE RIGHTS/SWORN WITNESSES

NOTE: This admonition is for Department personnel who are being interviewed in the capacity of **SWORN WITNESSES**.

I am SGT. JOHN NEMETH and this is SGT. ERNIE GJENDEM of the Internal Affairs Bureau, which is commanded by Captain Judith A. Lewis.

You are about to be questioned as part of an official Los Angeles County Sheriff's Department administrative investigation. You are here as a witness in a matter which concerns another employee. The complainant has not filed a complaint against you, and you are not under investigation as a subject in this matter.

Do you have a Policy and Ethics Chapter of the Manual of Policy and Procedures? Yes [ ] No [X]
Are you familiar with its contents? Yes [X] No [ ]

You are hereby advised that the provisions of the Government Code, generally referred to as the Peace Officers' Bill of Rights, do not apply in this instance. You are specifically reminded that Policy and Ethics Section 3-01/040.70 and 3-01/040.75 require that you make true, full and complete statements. Any refusal to do so may result in your discharge or other punitive action.

NOTE: Sworn personnel being interviewed as witnesses only and who are not under investigation or not personally charged with any violation do not have a right to have a representative present during the interview. If it is determined during the interview that the deputy is likely to be subject to discipline, the interview shall be stopped and the deputy shall be advised that his status has changed to that of a subject.

In the event the witness declines to answer questions on the grounds of self-incrimination, the witness/employee shall be readvised of his administrative rights as though he were a subject. **You are being ordered not to discuss the facts of this case or any of the issues discussed during your interview with anyone other than your designated representative or attorney in this matter.**

Initials [R.M.C.]

The above admonition has been explained to me and I understand its contents.

DATE: 11-08-95 FILE NO. 008383

Person Interviewed: [signature] ROBERT M. CHRISTOLON [redacted]
(Signature) (Print)

INVESTIGATOR: [signature] JOHN NEMETH
(Signature) (Print)

DEP. ROBERT CHRISTOLON
I.C.I.B. INTERVIEW 12-19-94

WITNESS INTERVIEW

CASE NUMBER 494-00023-2300-444

ROBERT CHRISTOLON

Hamilton

Q. Okay, today's date is December 19, 1994. It's approximately 2317 hours. I'm here at Men's Central Jail with Deputy Robert Christolon, employee number [redacted]. We're going to be discussing an incident that occurred here at Men's Central Jail on October 27, 1994, in Module 4400 during the early morning shift. Deputy Christolon, were you working on October 27, 1994?

Christolon

A. Yes, I was.

Hamilton

Q. What was your position?

Christolon

A. I believe I was the 4000 Prowler or the 4300 Prowler that day. I was one of the Floor Prowlers.

Hamilton

Q. Okay, for what shift?

Christolon

A. Early morning shift.

Hamilton

Q. Okay. What we're going to be discussing is the incident that occurred between Deputy Kluth and an inmate by the name of [redacted]. Do you remember that incident, the altercation between the deputy and, and the inmate?

Christolon

A. Yes, I do.

Hamilton

Q. Can you tell me what happened that particular evening involving you in that incident?

Christolon

A. Early in that night, Deputy [redacted], [redacted] and I, the regular prowlers had two mental observation inmates that had injuries, so we had to take them down to the clinic. After we did that, we went down to the ODR (Officers Dining Room) and while we were there, we received a call from the booth that there was an incident in 4400, at which time we came up on the elevator to the 4000 floor from the basement kitchen. We went into 4400. When I got in there, there was an inmate who was handcuffed and hobbled lying on the floor by the Baker/Denver side. He was bleeding. Deputy Kluth was standing outside the sally port, so was Deputy [redacted] and Deputy [redacted]. Deputy Sloan was standing inside the 4400 booth. When I got there, we just asked to make sure everybody was okay, made the calls to the clinic and stuff. Then I went back out to the booth to see if the, actually the person from the clinic needed an escort, and they didn't. I came back in and then I was just in and out, looking down the hallway for the nurse to show up.

Hamilton

Q. Okay. Short and sweet, good. Okay, let's back up.

Christolon

A. Okay.

Hamilton

Q. You were saying that you were down in the clinic and then you went to the chow hall.

Christolon

A. Right.

Hamilton

Q. ODR.

Christolon

A. Right.

Hamilton

Q. With the other prowler on the floor, correct?

Christolon

A. Right, right. Oh, it, Senior Jackson was with us at the time too, and he came up with us. I forgot about that.

Hamilton
Q. Okay. Was he working on the floor that night?

Christolon
A. He was the floor senior that night.

Hamilton
Q. Okay. You said that you got a call, was the radio or phone? Who called you?

Christolon
A. Deputy Howard was working the booth, and she got us on the radio, and then I told her we were in the ODR, and she called down to the ODR, and I picked up the phone, and she told us what was happening, and we went upstairs.

Hamilton
Q. Okay, what did she tell you?

Christolon
A. She said that an inmate had just nearly choked out Deputy Kluth in 4400.

Hamilton
Q. Okay, did she ask you guys to respond, or she was just advising you of...

Christolon
A. Well, she knew we would respond, it was kind of an ask, but she knew we were gonna come up, she wanted us to know what was going on, and we came up.

Hamilton
Q. Okay, so, it's yourself, Deputy [redacted], and Senior Jackson.

Christolon
A. Correct.

Hamilton
Q. Responded from the ODR.

Christolon
A. Correct.

Hamilton

Q. Do you know what time that was, approximately?

Christolon

A. I believe it was between 12:30 and 1 o'clock, because there were a lot of people in the ODR, and they were just getting out the rest of the food, so it had to be pretty close to 12:30, I believe.

Hamilton

Q. Okay, and when you guys went out there you mentioned, you already mentioned four Deputies, I believe, are [redacted], or [redacted]...

Christolon

A. Right.

Hamilton

Q. Sloan, Kluth, was there another deputy there?

Christolon

A. And, I thought Deputy [redacted] was in there. He was, he was around, so if he wasn't in there, he, he was coming in and out while we were coming in and out.

Hamilton

Q. Sloan was in the booth itself.

Christolon

A. Right. Sloan was in the control booth for module 4400.

Hamilton

Q. Right, (inaudible) and the rest were out in the sally port area?

Christolon

A. Correct.

Hamilton

Q. Okay. Was there any other deputy or civilians in the area?

Christolon

A. Not at that time.

Hamilton
Q. Okay. None.

Christolon
A. Not that I remember.

Hamilton
Q. Okay. Did you notice anybody, okay, we're back on tape, did you notice anybody in the showers or day rooms?

Christolon
A. I did notice what appeared to me to be a white male in the shower, in an orange top, the baker shower.

Hamilton
Q. Okay, alright. Okay, backing up, when you guys made it to the module, you said that you saw an inmate laying on the floor.

Christolon
A. Correct.

Hamilton
Q. Where was he positioned?

Christolon
A. In the sally port, where the Baker and Denver row, row gates open up.

Hamilton
Q. Okay, can you tell me what direction his head was facing and his feet?

Christolon
A. I believe he was facing me, and he wasn't twisted, so, I mean he was hobbled, but not twisted, so his head was in one direction, and his feet were the other way. I believe he was looking at me, because I remember he was blinking, and just kind of looking around at everybody to see what was going on himself.

Hamilton
Q. Okay, so he's looking towards the...

Christolon
A. Towards...

Hamilton
Q. ...main hallway, that direction, or was he looking back towards the row, or the shower?

Christolon
A. Okay, he would have been looking at the Abel Charley side, because his head, he was head to toe from the opening in the sally port, and his feet were down by the row gates.

Hamilton
Q. Okay, so you're saying that he, he was in front in Bravo Denver row...

Christolon
A. Right.

Hamilton
Q. ...but he was looking in the direction of Abel Charley row.

Christolon
A. Correct.

Hamilton
Q. Okay. Okay, and you said that he was bleeding, you know (inaudible).

Christolon
A. Correct. He was bleeding from a head wound.

Hamilton
Q. Okay, did you notice where he was bleeding from, which...

Christolon
A. No, I didn't.

Hamilton
Q. ...was it nose, eyes, lips?

Christolon
A. It, I don't believe it was facial, because like I said, I

remember looking at him, but I don't think it was coming from his nose, or anything, I think it was a scalp wound.

Hamilton

Q. Okay, but you really didn't notice.

Christolon

A. Yeah, I didn't, I didn't look to see where he was bleeding from.

Hamilton

Q. Was it a lot of, or a little?

Christolon

A. I would say a little, I mean I've seen other guys, just because this floor, that cut a vein or an artery, to me, it was a little bit of blood.

Hamilton

Q. Was he calm, was he in pain?

Christolon

A. He was just lying there, looking at us, he wasn't moaning, he wasn't groaning, he was just kind of lying there staring at the deputies that were standing around.

Hamilton

Q. Okay. Did anyone ask him any questions or anything?

Christolon

A. I didn't ask him, I don't remember anybody else asking him.

Hamilton

Q. Was anybody talking in the sally port?

Christolon

A. Well, the deputies were. Me and Deputy [redacted] were asking the other deputies if they were all right. We could see the inmate was conscious.

Hamilton

Q. Right.

Christolon

A. And he was bleeding, but, he wasn't really complaining of any pain, so we...

Hamilton

Q. Go ahead.

Christolon

A. I was gonna say I just assumed he was, I mean okay, all things considered.

Hamilton

Q. Okay. Did yourself or any of the other deputies, meaning [redacted] or the Senior, did they ask the deputies what happened?

Christolon

A. By, when we all came in, we were all like what's going on, what's going on, are you okay? And, I remember just the general conversation was Deputy Kluth had come out of the booth to talk to this inmate, and then inmate turned on him, and started choking him out and then, just those guys tried to control the inmate with whatever force they used and they hobbled him and that was it. He was lying there when we came in.

Hamilton

Q. Did they mention any force that they used? Did anybody say they kicked him, punched him, spit on him, interval strikes, impact weapons or anything like that?

Christolon

A. I talked more to Deputy [redacted] when I came in and he was telling me how he was trying to work the guy's legs to get control of him and I don't remember who he had said grabbed part of the upper body or whatever and then after that, I just, said everybody's okay and then I kept walking in and out to see if the nurse was coming out from the clinic.

Hamilton

Q. Okay. You said that [redacted] said that he tried to grab the inmate's legs...

Christolon

A. Well, he was, he was working his legs.

Hamilton
Q. Meaning what?

Christolon
A. He may have hit him. He just said he was trying to get control of his lower body.

Hamilton
Q. Okay. So, he didn't actually say...

Christolon
A. Yeah, he didn't...

Hamilton
Q. ...he tried to bend his legs or, he didn't say that he punched his legs to get them to bend or anything like that?

Christolon
A. Not to me. He just said that he was trying to control his legs.

Hamilton
Q. Okay. Anybody else? Did you overhear anybody else saying what they did as far as trying to control this inmate?

Christolon
A. No.

Hamilton
Q. Okay. Did the, did you see the sergeant there?

Christolon
A. I remember the sergeant walking in and out. It was Sergeant Mosley that night.

Hamilton
Q. Right. Was he there before you guys or after?

Christolon
A. No, he came in after us.

Hamilton
Q. Okay. How much after?

Christolon
A. I couldn't give you a time. But, I mean, it was quick because I was coming in and out of the hallway. I believe he got there either just before or just after the clinic staff.

Hamilton
Q. Okay. Did you noticed an inmate in the storage room when you walked in?

Christolon
A. No, I didn't. I just remember the guy in the shower.

Hamilton
Q. Okay. What did he look like?

Christolon
A. The guy in the shower?

Hamilton
Q. Yeah.

Christolon
A. White male. Sandy blonde hair. I remember him being a smaller build, maybe 5'7" to 5'10", a light build. Couldn't put a weight on him. He was standing towards the back of the shower when I came in and I noticed him.

Hamilton
Q. And, what shower was that?

Christolon
A. In the Baker shower.

Hamilton
Q. Okay. Anybody talk to him that you know of?

Christolon
A. I don't know.

Hamilton
Q. Okay. Did you see any trusties or anybody else?

Christolon
A. I didn't noticed any trusties.

Hamilton
Q. Did you talk to any inmates and see if they were a witness to the event?

Christolon
A. No. I just, I had seen the guy in the shower and seen that he was gonna be a witness and they get picked up when they started getting the paperwork rolling.

Hamilton
Q. Any deputies appear to be injured? Those four that you mentioned that were there prior to you guys arriving? Anybody?

Christolon
A. Not, not that I saw. Not that anybody said to me. I did relieve Deputy Kluth so he could go to Boyle Heights, though?

Hamilton
Q. Okay. Why is that?

Christolon
A. I just, at that point, I assumed that he was hurt or got injured or something and they asked me to relieved him so they could, they could go check out and that's what I did.

Hamilton
Q. Did the deputies appear to be upset when you guys responded there?

Christolon
A. Yeah. They were, they were upset. Some of them were flushed, a little red. Just kind of, still have that nervousness after something, you know, you get really excited and your adrenaline, still have that little shake going to them too.

Hamilton
Q. Okay. Did they say anything to the inmate?

Christolon
A. Not that I remember.

Hamilton

Q. Okay. Were they, you didn't recall them yelling at the inmate or cursing him or?

Christolon

A. No. When we got there, it was pretty much over. I'd say he was hobbled and lying there. We came in and we asked them if they were okay and they were okay and everybody said, "Yeah, yeah, I'm okay. It's all right now." And they were just trying to calm down and everybody just kind of looked at the inmate, we're like, you know, another force incident whatever.

Hamilton

Q. Okay. You said that you were waiting for, well, what happened after that once you guys arrived? You made sure the deputies are okay, what happened after that?

Christolon

A. Right. I said I came in, we were trying to get everybody, make sure all the notifications were made. Said I was coming in and out, waiting for the clinic to get there. On the clinics behalf, they actually got there a lot quicker than we expected them to be there. I couldn't give you an exact time but I would say roughly just the time it takes, from the they were called...

Hamilton

Q. Uh-huh.

Christolon

A. ...to the time it took to get to the floor they were there.

Hamilton

Q. Okay.

Christolon

A. I don't remember who the nurse was that came up.

Hamilton

Q. Was it just one nurse and a trusty or?

Christolon

A. It was one nurse, I remember Deputy Larson being there.

Hamilton
Q. Who is that?

Christolon
A. The clinic, clinic deputy.

Hamilton
Q. Okay.

Christolon
A. And, I don't remember who the other deputy was that came up from the clinic.

Hamilton
Q. Then what happened?

Christolon
A. The nurse came in. She's like call the doctor. She was saying something about they were gonna need blood for the inmate, who was hobbled on the floor.

Hamilton
Q. Okay.

Christolon
A. Then, I don't know what she did next. But I was back in forth, in and out, just to make sure that if anybody was coming in the hallway, they didn't step into the, into the module.

Hamilton
Q. Okay.

Christolon
A. And then, eventually, they loaded him up on the gurney. Took him down to the clinic and that was the last I saw of him.

Hamilton
Q. When they loaded him up, well, first of all, who loaded him?

Christolon
A. I don't know who loaded him up on the gurney. But, I mean, he got on the gurney and he wasn't getting on the gurney himself hobbled like that.

Hamilton

Q. Right. Yeah. You were there when he was put on the gurney?

Christolon

A. No. I was out in the hallway.

Hamilton

Q. Okay. Did you hear him while he was being taken down to the clinic? Did he appear to be in any pain? Was he yelling, was he screaming, was he calm, was he coherent?

Christolon

A. He was just like, when he was, when we came in, he didn't complain of any pain. Actually, that's not, he did say that his head hurt. That was the only thing I heard him say when he was going down the hallway.

Hamilton

Q. Okay, was he screaming or was he calm?

Christolon

A. No. He's just like, yeah, my head hurts. Are we going down to the, I, I can't say that he said was he going down to the clinic, that's speculation.

Hamilton

Q. Okay. Okay. Who, who called the clinic?

Christolon

A. It wasn't me, but I remember coming in and I was like, did you guys call the clinic and somebody said, "Yeah, the clinic's been notified."

Hamilton

Q. Okay. No one, did you see anyone examine this guy while he was hobbled? The senior, sergeant go over there and examine him or anything?

Christolon

A. Not that I saw. I mean it may have happened but.

Hamilton

Q. Okay. All right. Now, you mentioned earlier that there was

no other personnel other than the four that you've mentioned, and yourself, [redacted], and Jackson, correct?

Christolon
A. Correct.

Hamilton
Q. You didn't see any 9000 personnel?

Christolon
A. No.

Hamilton
Q. None?

Christolon
A. Not while I was there.

Hamilton
Q. Okay. All right. When this, now, we're going back to the clinic. When this guy was taken down to the clinic, did you go down there with him or?

Christolon
A. No, I didn't. Because shortly after he left, I relieved Deputy Kluth so he could go to Boyle Heights and he also had to get the force paperwork going too. So, I just wanna make it a little easier for everybody.

Hamilton
Q. Okay. You mentioned prior to coming on tape, well, we had a conversation prior to coming on tape, and we discussed rumors that you heard...

Christolon
A. Right.

Hamilton
Q. ...regarding this particular incident. Can you expound on that?

Christolon
A. What I had heard?

Hamilton

Q. Yeah. Just kind of, some of the things that you heard.

Christolon

A. I have heard that there were investigations going on for one of two reasons. The reasons came from different people. I heard from one source that it was because the inmate's testicle had been crushed or ruptured and it had to be removed. Then, we actually kinda knew there was gonna be an investigation about because a couple of days later, we had heard the doctor had removed the testicle from him. But, then I had also heard later just passing in the hallway, that an independent witness had said that there was a head shot after the fact.

Hamilton

Q. Okay. Also, didn't you, maybe this is something that I heard that, there were some deputies [redacted], correct?

Christolon

A. Oh, I did, I knew the deputies had been [redacted]. I was working P.M.'s and earlies the day that happened.

Hamilton

Q. Okay. Did your captain come in and explain that to you or some lieutenant or sergeant or somebody explain to everyone what happened and why it happened?

Christolon

A. He may have. I know we had a special briefing on early mornings. It was a half hour long briefing but I was off that day.

Hamilton

Q. Okay. Okay. Is there anything else that you could tell me about this particular incident?

Christolon

A. I, everything that I know or remember is pretty much been covered.

Hamilton

Q. Okay. Anyone else that I could talk to about this incident?

Christolon

A. The only people I remember being there, I've, I've mentioned already.

Hamilton

Q. Okay. Okay, I think that's just about it. We're gonna end this interview at 2334 hours.

END OF INTERVIEW

DOCTOR WILLIAM CONRAD
I.C.I.B. INTERVIEW 1-12-95

WITNESS INTERVIEW

CASE NUMBER 494-00023-2300-444

DR. WILLIAM CONRAD

Hamilton

Q. Okay, today's date is January 12, 1995, it's approximately 1100 hours. We're here at Dr. William Conrad's apartment in the City of Santa Monica. We're gonna be discussing an incident that occurred October 27, 1994, at Men's Central Jail. Present in the room, like I said, is Dr. William Conrad, who's a first-year physician working at USC Medical Center, as we know it, LCMC. He was working on the night of October 27th, in the jail ward at LCMC. This case is being investigated under ICIB File Number 494-00023-2300-444. I'm Sergeant Eric Hamilton from ICIB. Dr. Conrad, did you have a chance to examine a patient by the name of [redacted] on October 27, 1994?

Conrad

A. Yes.

Hamilton

Q. Okay. You were working at LCMC, correct?

Conrad

A. Yeah, I was working that night.

Hamilton

Q. Okay, what was your title that night and can you tell me about the examination.

Conrad

A. There's usually two physicians working on the jail ward on any given night for a 24 hour period from 7:00 a.m. to 7:00 a.m. the next day. It was, as my note indicates 2:30 in the morning on October 27th. I was one of the two physicians on the first-year resident and there's the third-year resident, Dr. Hallis. We sort of alternate between patients. Whoever comes in, whoever's available just picks up one of the patients so I picked up Mr. [redacted] after the nurse had had a chance to examine him.

Hamilton
Q. Okay which nurse was that?

Conrad
A. And then, looking on this sheet it looked like Nurse Escobar. And what she had done at 1:50 in the morning, as I can see by her note, is just spoken with the patient briefly and was able to look at his face also, and, and see that he had some abrasions and a laceration to his left eyebrow...

Hamilton
Q. ...Okay...

Conrad
A. ...and made mention of that.

Hamilton
Q. Are you reading something?

Conrad
A. Right now, I'm looking at the, the nursing encounter sheet. Where it's called the database and flow record for the nursing staff...

Hamilton
Q. ...Okay...

Conrad
A. ...and this would be the first thing that I would see before I'd even spoken with the patient. I might have looked at the patient, but it says basically that his chief complaint or mechanism of injury was that he was beat up. And I'm quoting from that. And then it says, patient states, can I, should I read it?

Hamilton
Q. Yeah, I was gonna say, just read the entire narrative.

Conrad
A. Okay. It says right here, "10-27-94, at 1:50 in the morning, at 13400", which is the admitting area, "that the patient was on a stretcher but was able to ambulate, so he was released from restraints." It says chief complaint or mechanism of injury, "I was beat up. Initial assessment, the age is 40 years, he's a male.

The patient states, he was attacked and hit and kicked by more than four people. He has a left eyebrow laceration two-inches long, lower lip laceration, several facial abrasions, complains of pain to testicle and groin area. States last seizure medicines were three days ago. Patient also states positive loss of consciousness." As far as his significant medical problems, they're all negative as far as the diabetes, hypertension, cardiac, cardiovascular or tuberculosis that we ask about. There's a history of seizures which he gives. And the standard care statement is that there's an alteration in comfort. And that's...

Hamilton

Q. ...Okay...

Conrad

A. ...Also that he hasn't had a, tetanus booster for over five years and he had a negative PPD, or tuburculent skin test in 1992.

Hamilton

Q. Okay, so once you read that, you had a chance to examine Mr. [redacted], correct?

Conrad

A. Yes.

Hamilton

Q. Okay, can you tell me from your memory or from your notes that you're looking at right now...

Conrad

A. ...Okay...

Hamilton

Q. ...what you remember about this particular inmate.

Conrad

A. I, I actually in addition to the note, I do remember him, because that week we had as many as three individuals that had similar injuries as far as what was highly suspicious as being a testicular fracture or testicular swelling. There's other reasons besides fracture for testicular swelling but in the case of all three individuals we suspected fracture...

Hamilton

Q. ...Okay...

Conrad

A. ...and certainly in Mr. [redacted] I suspected that he had a testicular fracture based on the fact that his scrotum was swollen. His left testicle was about the size of a large tangerine or small orange. It was extremely tender, which I've indicated here in capital letters on my physical examination documentation. And so, the indication would be that we do an ultra sound...

Hamilton

Q. ...Okay...

Conrad

A. ...and that ultra sound confirmed the diagnosis of testicular fracture only involving the left side. The right side was normal.

Hamilton

Q. Okay.

Conrad

A. As far as my encounter with him, what we do and one of standard procedure is to take the history first and to ask the patient what happened. How they got sick. Why they're here, basically, in a very open-ended format. And what I remember Mr. [redacted] describing to me was that, and I've indicated here as far as quotations, directly quoting him, that he said, "I got jumped and I got kicked in the balls." And at that time, and in later discussions with him while he was on the ward after being admitted, he had said to me that other inmates in the county jail had mistaken him for his father who has the same name, [redacted] And that because of his father was involved in some element of organized crime or the mafia, then he owed money or something to that effect that there were other prisoners that wanted to retaliate against him. And for that reason, he was beaten up. Under the, under mistaken identity for being his father.

Hamilton

Q. Okay.

Conrad

A. And, as far as other things, you know, regarding his, what he had told me, he denied having a loss of consciousness or altered mental status. He denied any problems with his vision. All these things are significant as far as head trauma...

Hamilton

Q. ...Okay...

Conrad

A. ...It's very important to assess whether or not that has happened. If somebody has any evidence of head trauma, well then that's a minor contusion or an abrasion or a laceration as was this case. He also described having a seizure disorder. His last seizure had been several years before and because he had not taken his medicine, he said it had been three days since he was given his seizure medicine, we gave him what we would consider not a loading dose, but to restart his previous medi-, medications...

Hamilton

Q. ...Okay...

Conrad

A. ...At a level that they'd become therapeutic rapidly enough that he wouldn't have a seizure. Although in my mind at that time, it was, I didn't suspect that he was going to have a seizure.

Hamilton

Q. Okay. Let me, let me ask you something real quick. You said that Nurse Escobar examined him at approximately 0150 in the morning...

Conrad

A. ...Um hum...

Hamilton

Q. ...0150, what time did you actually examine him according to your notes or if you remember.

Conrad

A. 2:30. I mean, I don't remember specifically what time it is...

Hamilton
Q. ...Okay...

Conrad
A. ...but what my, my custom is and what Dr. Bailey, who's the attending physician at the Jail Ward, she's also an attorney, has taught us to, to document exactly when we see the patient for the first time. Exactly when we're sitting in the room and we have the sheet in front of us and we're ready to talk to that patient and devote our attention to that patient.

Hamilton
Q. Okay.

Conrad
A. And so, what I've indicated here was that it was 2:30 in the morning.

Hamilton
Q. Okay and when you say here, what note are you referring to?

Conrad
A. I'm referring to, it's just the Emergency Room Record. It's the physicians record of what we do for the patient. What the patient tells us, what treatments are rendered, what laboratory examinations are performed. If we have the time to put the results of those lab examinations down, and then other radiologic or electrocardiographic, urinalysis, things that that where I'll put there.

Hamilton
Q. Okay so basically you saw Mr. [redacted] 40 minutes, approximately 40 minutes after Nurse Escobar...

Conrad
A. ...yeah...

Hamilton
Q. ...examined him...

Conrad
A. ...yeah...

Hamilton
Q. ...briefly...

Conrad
A. ...yeah.

Hamilton
Q. Okay. Did you notice the type of injuries that he had...

Conrad
A. ...Yeah...

Hamilton
Q. ...other than his testicle problem.

Conrad
A. What I noticed is that, as far as his general state of being that as a, mentioned here. He was well nourished and well developed. He was in no acute distress at the time, meaning that he was able to sit comfortably. As is often the case, the patients are restrained when they come in to the jail ward, but if they're not combative and they're calm, they're released from the restraints and they're allowed to sit on a series of benches, on a series of plastic chairs that are outside of the admitting room. Usually while they're sitting there, the nurse comes and speaks to them and the nurse will take the vital signs of the patient, so temperature, pulse, blood pressure and will assess the respiratory rate. The nurses have been working there a long time. They have very good judgement. So if there's somebody who really looks like they're ill or really looks like there's an acute problem that's about to become much, much worse, then they'll alert us to that.

Hamilton
Q. Okay.

Conrad
A. And in his case he was really in no acute distress. As you can see, his vital signs here are all within normal limits. He's a fibril, his blood pressure is normal, pulse rate is surprisingly low for someone who sustained that degree of injury and you know, he must have been in a considerable amount of pain, but didn't show it by his physical examination or his vital signs. As far as the rest of his, his examination, I remember he had more vividly to my

recollection, I can actually remember the bridge the of his nose being swollen and him having some abrasion. And I actually considered getting a facial series which means a series of x-rays to assess whether or not there's any nasal fracture or isogametic arch fracture which are the cheekbones. Whether or not there's any jaw fracture. But instead of going ahead and, and, and doing that, number one, labor intensive, time intensive and expensive tests, I just did a more thorough physical examination of his face. In which, I would put gloves on, reach my fingers inside of his mouth and on his nose and sort of tug and pull at the bones to see if there's any great degree of discomfort which might indicate a fracture. If somebody had a lot of pain while I was doing that, then I would proceed with the facial series and then even an ortibal or a facial cat scan.

Hamilton
Q. Okay.

Conrad
A. In his case, what I've documented here is there's no masiofacial instability. Minimal point tender, tenderness. No battle sign or raccoon eyes, which are signs of basil or skull fracture or facial fracture.

Hamilton
Q. Okay.

Conrad
A. In which case he had none of that. So at that point, I really said there was no reason to do the facial series and as it turns out that, you know, I mean the laceration and the abrasions weren't that significant...

Hamilton
Q. Okay so...

Conrad
A. ...and...

Hamilton
Q. ...in his face, we'll just start from the top. In his face, he just had a swollen nose and, and...

Conrad

A. ...Right...

Hamilton

Q. ...he had a cut over his...

Conrad

A. ...and he had a cut, now the cut, I, I remember vaguely now. I can, I can picture the cut and a, a good degree of certainty, I can remember this individual laceration. I remember it being that of Mr. [redacted]. And I do not remember doing anything for the cut besides cleaning it out with dilute saline with a little bit of povodine in it, that's what we do, we make a mixture of it's sort of an antiseptic just to clean the wound out. And in assessing it, I don't remember there being any need for suturing, meaning that the, the laceration itself, although fairly long, two centimeters long, was not sufficiently deep to warrant suturing so...

Hamilton

Q. ...Okay...

Conrad

A. ...it wasn't sutured.

Hamilton

Q. Okay, did he have any other lacerations or contusions in the face?

Conrad

A. And according to the nursing note, they say that there's a lip laceration. If there was a lip laceration when I looked at it as far as when I talked about the, the HENT or head, ears, eyes, note, nose and throat examined, there was nothing significant enough for me to...

Hamilton

Q. ...Okay, did you see any swelling around the head at all. Any knots or anything, contusions around the head?

Conrad

A. No, the head seemed within normal limits in that there was no apparent trauma anywhere on the head (inaudible)...

Hamilton
Q. ...(inaudible) or anything like that...

Conrad
A. ...No just aside from the laceration on his eye...

Hamilton
Q. ...Okay...

Conrad
A. ...and or on his eyebrow I should say. And the swelling on his nose...

Hamilton
Q. ...Okay...

Conrad
A. ...And that was all. The other thing I mentioned also was he had no hematoma, which means there was no blood within the ear canals either.

Hamilton
Q. Okay.

Conrad
A. And the ears were within normal limits.

Hamilton
Q. How 'bout, did you see any injuries around his neck or shoulder areas?

Conrad
A. No.

Hamilton
Q. How 'bout his back?

Conrad
A. No.

Hamilton
Q. Stomach?

Conrad

A. No. That all these things as far as that if there's something significant, you know, it would be something that would, would stick out of my mind...

Hamilton

Q. ...Sure...

Conrad

A. ...Because normally we get it if we have young, healthy, you know, we usually get young, healthy males up there...

Hamilton

Q. ...Sure...

Conrad

A. ...and that, when there is something it stands out. For instance, if there's any, if there's a surgical scar, if there's evidence of trauma, meaning that, you know, there's a contusion or there's an, an abrasion or there's swelling or anything like that or if there's point tenderness, meaning when you touch an area it's extremely painful or if they can't move a particular extremity or their neck, or their back the way they normally can, then that will stick out in your mind as being something that needs to be investigated...

Hamilton

Q. ...Okay...

Conrad

A. ...In his case, as far as what I've written here, his neck was supple, non-tender with normal range of motion. His chest cleared (inaudible) regular, without (inaudible) wheezes, no ecchymosis. And so that's documented as far as his chest and that would include his posterior chest or his back that there were no bruises...

Hamilton

Q. ...Okay...

Conrad

A. ...And for me to write something like that I would be certain...

Hamilton

Q. ...Sure...

Conrad

A. ...you know, because if Dr. Bailey, the next day, would come in and find out there was a huge ecchymosis on this guys chest and I had written to the contrary that doesn't make me look very good. So I'd want to be sure of that.

Hamilton

Q. (Laughs)

Conrad

A. And then as far as everything else, as far as his cardiovascular was normal, his abdomen was normal, his rectal exam was normal. There was no blood in the, in the stool and his genital/urinary exam, as I had mentioned, showed a normal uncircumcised penis. There was no discharge from the penis, meaning, either serious fluid or an infectious discharge or blood, which is what I suspected the most in that sort of injury. Especially from what he had told me was the mechanism of the injury. And all that was significant was that his left testicle was swollen, as I described before, and it was extremely tender and it was tender to the degree that just by touching it, the patient would wince, and, and, you know, guard the area in severe pain.

Hamilton

Q. Okay. Let me ask you, too, going back to the examination did you notice anything, any bruises or lacerations or any type of injuries, any type of injuries around his groin area, his inner thighs, or his buttocks area?

Conrad

A. No, what, what I saw was, aside from the testicle being swollen and tender, that the skin was intact. That there were no abrasions or no lacerations. There was no ecchymosis or sign of bruising around the area. That it was very isolated to the left testicle and there was no clear evidence, there was no evidence whatsoever of additional injury in that area.

Hamilton

Q. Okay. Okay, anything else you can tell me about?

Conrad

A. Other than that, aside from what's written on the sheet as far as his laboratory data and as far as, you know, the ultra sonic data of...

Hamilton

Q. ...Okay...

Conrad

A. ...the fracture, that's pretty much it.

Hamilton

Q. Let's go back to your notes. I believe you said that the inmate told you that he was involved in a fight and he got punched and kicked numerous times. Did he ever tell you who kicked him? Did he say inmates? Did he say just people in general? Did he say officers? Did he...

Conrad

A. ...Right, his, his exact words, I can't recall.

Hamilton

Q. Okay.

Conrad

A. It's been three, four months now since this happened.

Hamilton

Q. Okay.

Conrad

A. What I do remember, though, is his concern that he had been mistaken for his father and that the impression that I got very distinctly from him was that there were other inmates in jail, other people who were incarcerated at the county jail facility, who wanted to retaliate against his father.

Hamilton

Q. Okay.

Conrad

A. And that they had either chosen him to retaliate or they had actually mistaken him for his father. And that was the impression

that I got from him very distinctly, that, that Mr. [redacted] had been mistaken for [redacted] and had been beaten up by these inmates. And he told me that he was held face down, that he was punched several times and jumped, as he put it, and then held face down on a cement floor. He didn't tell me where this was. And he didn't tell me who the other people were specifically. But that they were inmates in the jail and that they held him down and kicked him repeatedly in the groin...

Hamilton

Q. ...Okay...

Conrad

A. ...face down. And then about a day later, actually I'm trying to remember specifically when it was, he was in the holding tank. So it was the, still the same call date for me. So it was several hours after I had encountered him initially...

Hamilton

Q. ...Yes...

Conrad

A. ...while he was in the holding tank which is a big room that contains all the male inmates that we would have seen for that 24 hours period. At least the ones that haven't been sent back to the county jail infirmary or admitted...

Hamilton

Q. ...Right...

Conrad

A. He was concerned that he would be mistaken again, and it seemed inappropriate because I didn't know whether or not, you know, anybody else would even know who he was. I mean, he didn't...

Hamilton

Q. ...Right...

Conrad

A. ...seem to be that high profile an individual that it was warranted, but he wanted to make sure that I would ask the deputies to change his, his wrist tag with his name on it to [redacted]

[redacted]. So it was clear to everyone that he was not [redacted]. And he asked me to do that while he was in the holding tank and so I asked the deputies to arrange that and, sometime over the next 24 hours, between his surgery which occurred later that day, I believe. I can look as far as when that dictated the...

Hamilton

Q. ...Next page...yeah, no this one...

Conrad

A. ...So it's the same day. So sometime between his surgery that same day and his first post-operative day, he had his name changed on the wrist identification band...

Hamilton

Q. ...Okay...

Conrad

A. ...to [redacted]. And he mentioned that to me on the post-operative day. So he was back on the ward in 13600 down the hall from where we had initially worked him up and down the hall from the holding tank area. And he had asked me about it once again and at that time, or soon thereafter, he was given the new name tag.

Hamilton

Q. Okay. Was anyone else present when he mentioned that to you about his father. Was there a nurse, another doctor present? Or was it just you doing a follow up or do you remember?

Conrad

A. Well, the first time that he mentioned it, the first time that he told me about the identity of his father and, and the mistaken identity was in the exam room, was in the admitting area, 13400...

Hamilton

Q. ...Right...

Conrad

A. ...of the jail ward and we have people coming in and out of there. Dr. Hallis and I will be there the majority of the time because we're the only two physicians there staffing the, the jail

ward especially late at night at 2:30 in the morning, everyone else had gone home. And then there's usually two nurses that are assigned to that admitting area and they'll come in and out also as they're needed. And so, any of those individuals might have been in the room at any given time. Probably one of them was, probably Dr. Hallis, or one of the nurses was there.

Hamilton

Q. Okay. The first time that Mr. [redacted] advised you that he was beat up because someone mistakened him for his father, were there any deputies in the room at that time that you can remember?

Conrad

A. Not that I remember.

Hamilton

Q. Okay, is it common for them to be in the room for a guy that appears to be passive?

Conrad

A. No, it's not. I mean, if somebody is, is, if somebody needs to be restrained and somebody's highly agitated, then the deputies will come in. But, for the most part, they're just down the hall...

Hamilton

Q. ...Okay...

Conrad

A. ...doing, you know, as far as the processing of the all the information about the inmate. They're doing there job down the hall and we're in our room doing our job and, you know, and ideally we don't need to call them in for anything.

Hamilton

Q. Okay. Off tape we, we discussed Mr. [redacted] injury to his testicle and I asked you was his injury consistent with being kicked anywhere between, let's say, five to ten times in the testicle and I know you're not an expert in this field but you had stated what for the tape? In your opinion.

Conrad

A. In, in my opinion and I think it, you wouldn't even have to

be a physician, you know, to, to make these determinations. That it's possible, but if you're kicked that many times or if you're kicked very forcibly it seems that there would be some other evidence of trauma.

Hamilton
Q. Such as.

Conrad
A. Such as, well, that you have ecchymosis, that you have bruising. That you might have abrasions that, there might be additionally tenderness in, in other areas but from the sort of injury that he had, it was very isolated injury. In that, the penis was normal, the right testicle is normal, the whole perennial area down below his groin and crotch area seemed absolutely normal aside from the fact that he had a very swollen and painful left testicle and that was all he had. So it's possible, I mean, I can't say it's not possible that if he was kicked repeatedly that if, you know, he was kicked how many ever times in that one testicle or he, if he was kicked elsewhere it just didn't show evidence...

Hamilton
Q. Right.

Conrad
A. ...Of so. I don't know if he wasn't kicked hard or whether or not.

Hamilton
Q. Was that injury, would it be more consistent with, let's say, one good kick or...

Conrad
A. ...Intuitively, yeah. I think it might be more consistent with just being hit one focal time.

Hamilton
Q. Okay.

Conrad
A. Or if he was hit other times, then those other times weren't sufficient and I can say that with 100 percent certainty that they

weren't sufficient to provide any evidence of trauma that was visible to me.

Hamilton

Q. Okay. How 'bout, we talked about possibly a knee strike or someone falling on top of the testicle, is that possible to cause that damage...

Conrad

A. ...Yeah...

Hamilton

Q. ...type of damage?

Conrad

A. It's certainly possible.

Hamilton

Q. Okay and you had mentioned that if a person, how 'bout grabbing, for example. If a guy grabbed your testicle...

Conrad

A. ...I think that, that any force sufficient to rupture the testicle itself, to rupture the capsule of connective tissue surrounding the testicle, that there would be an infinite ways of, of providing that degree of force, that degree of pressure to a focused and very localized area that you would be able to do that. So either by grabbing, punching, stepping, kicking, I mean, that anyway that you can imagine that you could conduce, or that you could transduce that much force into that given area, that would be adequate to, to...

Hamilton

Q. ...So...

Conrad

A. ...fracture the testicle.

Hamilton

Q. ...I just want to make sure that if, if a person, let's say a person of my size. I weigh [redacted] pounds and, and I have, I work out every now and then. If I can grab this guy's testicles, I can actually squeeze them where it would cause a fracture or would it

have to be an extremely strong person...

Conrad

A. ...That, I'm not sure of. I'd have to actually look up the data, as far as, you know, the, the ideal to talk to for that question would be Dr. Dunn.

Hamilton

Q. Okay.

Conrad

A. To one of the urologists because, as far as the actual force required to rupture a testicle, that I, I don't know.

Hamilton

Q. Okay, alright. I just want to kind of see what, what caused this. Okay, is there anything else. Let me ask you is it conceivable that this person just looking at the injuries that you've noted that he was punched in the, in the face or in the body numerous times by multiple persons?

Conrad

A. Yeah, it's, I mean...

Hamilton

Q. ...Looking at the injuries and, and we're talking about the body injuries...

Conrad

A. ...Right...

Hamilton

Q. ...as well as the facial. Is it consistent with being, let's say beat by four, four people?

Conrad

A. It's, it's possible that, I mean, the type of injuries that he has. He's got some facial trauma, the laceration and the abrasions and the swelling on his nose. It certainly looks like he got hit in the left side of his face and his nose. And then, he has just the testicular injury.

Hamilton

Q. Okay.

Conrad

A. This is all he manifested at the time that I examined him. So I didn't see any clear evidence of, you know, that made me suspect he had broken ribs or that he had been, any cervical spine injury, or any internal injury as far as, you know, ruptured spleen is something that we might look for, dislocated joints, as far as, shoulders, elbows, that his fingers were damaged in any way. I mean, the, his exam was limited only to the left testicle and the superficial trauma that he had sustained on his face.

Hamilton

Q. So they were, let me go back to the body, too. Did it appear as if he was struck in the body? Kicked, punched, numerous times...

Conrad

A. ...No...

Hamilton

Q. ...in the body, front or back?

Conrad

A. No, it did not. That is, as far as his chest area, as far as his neck...

Hamilton

Q. Right.

Conrad

A. ...his back, his abdomen, and his extremities. There was no evidence, at least what I can say that I saw at that time...

Hamilton

Q. Right.

Conrad

A. ...with a very thorough examination from head to toe with the patient disrobed or in a hospital gown so I could visualize every part of that patient's body.

Hamilton

Q. Okay.

Conrad
A. Including the perineum, including his, his anal area, including underneath his scrotum, from head to toe. I mean, that entire patient passed before my eyes so I...

Hamilton
Q. Right.

Conrad
A. ...could see if there was any trauma.

Hamilton
Q. So it would be fair to say that this attack was basically focused on his face, face area as well as his lower extremities, maybe his groin area.

Conrad
A. It, it, that's an assumption...

Hamilton
Q. Right.

Conrad
A. ...to say that it was, if, if it was directed at, the attack was directed anywhere else, it wasn't sufficient to cause evidence...

Hamilton
Q. Okay.

Conrad
A. ...that I could see.

Hamilton
Q. Okay.

Conrad
A. Now if there was evidence that I missed, you know, if it's possible that he, you know, had been struck in the back and it was very sore and tender, but there was no bruise. When I push on that area, or I touch that area, if he doesn't tell me that there's pain there...

Hamilton

Q. Right.

Conrad

A. ...I don't see a bruise, then I'll never know...

Hamilton

Q. Right.

Conrad

A. ...Then there's no way I'd ever know. So, that, and he was given ample opportunity to describe where he was hurt, what was bothering him. And at that time, his primary complaint was his testicle because it was extremely painful for him.

Hamilton

Q. Okay. Let me, let me, last question. You had mentioned that during that week or week or two you actually had a chance to see three people that had similar problems. How can you distinguish between Mr. [redacted] and these other two individuals?

Conrad

A. The, the one that I clearly remember was, well actually, I clearly remember Mr. [redacted] because he was a patient of mine that we admitted and we had, you know, in our service for a, for a few days, for two days...

Hamilton

Q. Okay.

Conrad

A. The other individual, because we had also commented on it that it was sort of the, the diagnosis in vogue for those, you know, couple of days all of a sudden that we were getting all of these testicular injuries. And I'd gone a long, long time without ever seeing any. You know, on, on various services that I worked on. The other individual we had was, was younger and in his 20's. And he had a much more distended scrotum that we initially thought was a herniation. And I remember, we had tried to manually reduce that herniation by putting the patient with his feet up and his head down which is called Reverse Trendelenburg Position, to try and push it back in. So, this patient tolerated a great deal more

manipulation that, had we tried to do that on Mr. [redacted], and he would have jumped through the roof from the pain that would have caused. So, it was a very different presentation, but as it turned out, it was also a fracture, I believe.

Hamilton

Q. Okay. Was Mr. [redacted] coherent throughout your examination? I mean did he appear to understand what you were saying and he answered all you're questions?

Conrad

A. Yeah, he, he was able to, he'd ask appropriate questions regarding, you know, what his sexual function would be afterwards. He was asking appropriate questions regarding what the surgery was like. He, he was very inquisitive afterwards about what the surgery was and what had been done and what the ramifications would be in the long term.

Hamilton

Q. You're talking about after the operation?

Conrad

A. Yeah, I'm talking about on his first post-operative day.

Hamilton

Q. When, when you examined him initially, was he able to answer your questions?

Conrad

A. Yeah, he, he seemed coherent enough. He, when he was discussing, you know, his father and discussing it, I always have experienced patients will come in and number one, everyone says that they're innocent, you know, that it was a mistake. That it was...

Hamilton

Q. ...Sure...

Conrad

A. ...a parole violation or that it's mistaken identity. And, so we sort of become immune to that after a while and get used to these very elaborate stories that the patients will tell. And we've also found that they very rarely correspond with what the

booking records shows as far as why they're there. That he, you know, in saying all these things about how his father was very, very powerful and had these, you know, people who were out to get him, and he had all this money, and, you know, so it seemed a little (TAPE, SIDE A ENDS)... as far as why he was there, he responded appropriately and, and he seemed coherent.

Hamilton
Q. Is there anything else you could add? Maybe I've forgotten to ask or...

Conrad
A. No, aside from what we've talked about. I mean, just other things on, you know, the, the history as far as his seizure disorder. He had gotten some seizure medications. His initial seizure, of some interest, he said was caused by head trauma, that he got hit in the head.

Hamilton
Q. Yeah.

Conrad
A. And other than that that he hadn't drank, he doesn't smoke and that he had last used cocaine nasally four months prior to coming in.

Hamilton
Q. Okay.

Conrad
A. And that's all that I got from him.

Hamilton
Q. Okay, that's all I have, so we're going to end this interview at 11:31.

END OF INTERVIEW

I/M [redacted]
I.C.I.B. INTERVIEW 2-21-95

WITNESS INTERVIEW

CASE NUMBER 494-00023-2300-444

[redacted]

Hamilton
Q. Okay, today's date is February 21, 1995. It's approximately 1124 hours. I'm here at Men's Central Jail getting ready to interview Inmate [redacted], booking number [redacted]. Mr. [redacted] was present in Module 4400 on October 27, 1994, when the incident occurred between the deputies and Inmate [redacted] This case is being investigated under ICIB File Number 494-00023-2300-444. Present in the room is Sergeant Ron Bell and myself, Sergeant Eric Hamilton, both from ICIB. Mr. [redacted], were you housed in Module 4400 on October 27, 1994, at approximately midnight?

[redacted]
A. Yes I was.

Hamilton
Q. You were assigned there, correct?

[redacted]
A. Yes.

Hamilton
Q. Okay, were you there between midnight and let's say 2:00 in the morning?

[redacted]
A. Yes.

Hamilton
Q. Were you actually in the module, or were you elsewhere?

[redacted]
A. I was elsewhere.

Hamilton
Q. Where were you at the time?

[redacted]
A. At the clinic.

Hamilton
Q. Okay, when did you go to the clinic?

[redacted]
A. It was approximately 1300 hours.

Hamilton
Q. Okay, so you're talking about 1:00 in the afternoon?

[redacted]
A. In the morning.

Hamilton
Q. Okay, so you mean...

[redacted]
A. ...Oh no, 0100 hours.

Hamilton
Q. Okay, did you see an incident, a fight between deputies and an inmate?

[redacted]
A. No, I did not, I just seen an inmate that was in the module being brought to the clinic on a gurney.

Hamilton
Q. Okay.

[redacted]
A. His head was bleeding and he was in a nervous condition, and he kept hollering, he kept calling, call my mother, call my mother.

Hamilton
Q. Okay, so you didn't see this incident that occurred up in Module 4400, correct?

[redacted]
A. No, I did not.

Hamilton

Q. Okay, at all.

[redacted]

A. At all.

Hamilton

Q. Okay. And you said that you left around 1:00 to go to the clinic, or were...

[redacted]

A. ...Yes.

Hamilton

Q. Okay. Anything else?

[redacted]

A. Ron, do you have anything?

Bell

Q. What did he say in the clinic? Were you actually in the clinic area, in the clinic itself, or were you out on one of the, out in the hallway?

[redacted]

A. I was leave, I was leaving the clinic going back to the module, they was bringing him from the module on the gurney.

Bell

Q. So you just passed in the hallway?

[redacted]

A. Passing by.

Bell

Q. Okay. So you did not see an incident?

[redacted]

A. No, sir.

Hamilton

Q. Okay. Alright we're going to end this interview at 1126 hours.

***** END OF INTERVIEW *****

I/M [redacted]

I.C.I.B. INTERVIEW 12-7-94

WITNESS INTERVIEW

CASE NUMBER 494-00023-2300-444

[redacted]

Hamilton

Q. Okay, today is December 7, 1994. It's now 1805 hours. We're here at Men's Central Jail in the 7000 Floor Conference Room. We're going to be discussing the incident that occurred on October 27, 1994, at approximately 0030 hours in Module 4400 at CJ. The inmate that we're going to interview is [redacted], Booking Number [redacted]. This case is being investigated under ICIB No. 494-00023-2300-444. Present in the room are Sergeant Ron Bell, myself, Sergeant Eric Hamilton, both from ICIB. Okay, Mr. [redacted], were you in Module 4400 on October 27th at approximately 0030 hours?

[redacted]

A. Yes.

Hamilton

Q. Okay. What were you doing there?

[redacted]

A. I was on the telephone at that time. I was a trusty.

Hamilton

Q. Okay, you were a trusty in Module 4400?

[redacted]

A. Yes.

Hamilton

Q. And you were on the pay phone?

[redacted]

A. Pay phone. As you enter the door.

Hamilton

Q. Okay, can you tell us, did you happen to witness an incident that occurred between an inmate housed in 4400 and a deputy assigned to Module 4400?

[redacted]

A. Yes, partially.

Hamilton

Q. Okay. Can you tell me what happened from your perspective?

[redacted]

A. Well, I was on the phone and, for about 20 to 30 minutes, this guy had been roaming on the row and when I say roaming, he had got out of his cell and was walking around on the tier. The deputies had asked him to lock it down, but I don't know if he was manipulating or whatever it was. I mean, it wasn't mine--I wasn't on duty, so it wasn't mine job to make sure he get in his cell. And, anyway, a deputy came in and relieved--Deputy Kluth, the deputy that came in, I don't know his name but I have a description. He's about 5'7", 5'9". He's like blond hair with a flat-like crewcut haircut, kind of muscular guy, with a moustache, no beard. He relieved Deputy Kluth, and at the time, Deputy Kluth came out and called the guy up, the inmate that was on the row. When he called the inmate up, a brief--, some said, they was talking about something, and he had the inmate on the wall.

Hamilton

Q. What wall are you talking about?

[redacted]

A. It's a wall in the 4400 as you come in the "A" gate, in the one gate that you come in, we call it. You come in the one gate and it's right by the Inmate Complaint Box.

Hamilton

Q. So, you're talking about if you came into the module, if you go--

[redacted]

A. Straight

Hamilton

Q. --straight towards the building and you make a left.

[redacted]

A. A left. Yeah.

Hamilton

Q. Okay.

[redacted]

A. And him and the inmate was right there and he was saying something with-- to the inmate and he went to push the inmate closer to the wall. The inmate went closer and then he pressed a little harder and the inmate spun off the wall.

Hamilton

Q. Okay.

[redacted]

A. When the inmate spun off the wall, him and Kluth were standing face-to-face and Deputy Kluth tried to restrain him and put him back on the wall, but he got out of Deputy Kluth-- He got out of his restraint.

Hamilton

Q. Okay, hold on for a second. When you were saying he tried to restrain him, what do you mean by that? What did he do?

[redacted]

A. Well he tried to force him back on the wall.

Hamilton

Q. How?

[redacted]

A. With his hands.

Hamilton
Q. But--but what did he grab?

[redacted]
A. He grabbed the guy by the shirt?

Hamilton
Q. Did he grab his arm?

[redacted]
A. By the shirt.

Hamilton
Q. In the back of his shirt, in front of his shirt?

[redacted]
A. Right by the shoulder, the collar part.

Hamilton
Q. Okay, and--

[redacted]
A. He went to sling him back up against the wall.

Hamilton
Q. Push him?

[redacted]
A. Yeah. And the guy spun off again.

Hamilton
Q. Okay.

[redacted]
A. That time. The second time he spinned off the wall, Deputy Kluth drew his flashlight from his holster and him and inmate went in circles for a minute right there by the booth and, at that time, the deputy that was in the booth, he couldn't come out the booth and leave the booth unattended, so he starts jumping around in the booth, but he ran back and called on the

phone. At that time, Deputy Kluth and the inmate had come from the left side of the--where he was, by the box, all the way over to the right side by the shower.

Hamilton

Q. And that's in front of Bravo Row?

[redacted]

A. That's in front of Baker Denver.

Hamilton

Q. Right.

[redacted]

A. Yeah, so, I kind of got up off the phone when I heard the commotion on that side when it was out of my sight. I just kind of peeked. I didn't want to get caught looking though because, you know, that's-- you know, they teach us that if a diffa-- an inmate or a deputy have a problem or whatever, if the deputy is having a problem, for us to stand back, or you know lock ourselves down and secure ourselves. But, at that time, I peeked and Deputy Kluth had the inmate on the ground. And, if I recall, if I'm correct, it was a scuffle for a minute. At that time, the door popped open by the phone, the front gate.

Bell

Q. This is the door going to the hallway?

[redacted]

A. Yeah.

Bell

Q. The main module?

[redacted]

A. Yeah.

Bell

Q. Entrance?

[redacted]

A. Yeah. The main module. Yeah. The main gate. And, when it popped open about, anywhere from at least 10 to 15 deputies came in then there. All following pursuit. They ran to that area. At that time, I knew to get out the way. So, I went into the laundry room which they use as a holding facility, but we come from pill call or come for my pass or whatever, they put us in there until the deputy locks us down.

Hamilton

Q. Where is the laundry room...

[redacted]

A. It's to the--

Hamilton

Q. ...in relations to the phone?

[redacted]

A. It's right directly across.

Hamilton

Q. Okay, so you're saying on the left side?

[redacted]

A. On the left side.

Hamilton

Q. So, you went and you locked yourself in the laundry room?

[redacted]

A. I just-- No, the door was open. You can't lock it by hand. You have to lock it by key. I went in there, but there's like a--a window there with a sliding cage, and the cage was up and I kind of--I was peeking around the corner, and I couldn't see no names or exactly who was doing what, but I saw a lot of kicking and punching and flashlights swinging. The guy starts hollering, "Okay, okay. I'm down, I'm down," and all I could hear was a lot of cursing and a lot of--a lot of hits. I mean, I mean I heard the blows connecting. I heard the boots. I

heard the keys. And, by that time, one of the deputies that piled in had came in with the rest of them. He had came away from the area, came around and looked around the corner towards the gate. Came over to where I was in the laundry room and told me to go face the wall, put my face in the corner and don't move. I did what he told me to do and I was in the laundry room for about 15, 20 minutes and this was going on, and everything started calming down and the phone was off the hook, still, 'cause my wife was on the phone, my fiancee. And, I just--I didn't tell her what was going on, but I said I gotta--I gotta--I'll call-- I just said, "Just hang on. I'll be right back." So, I after I had been in the laundry room about ten minutes, I looked in the corner of my eye and seen the phone still hanging. I asked the deputy that was standing there, I said, "Well can you tell my wife that I'll call her back?" He picked up the phone. I couldn't hear exactly what he said, but he said, "This is the Los Angeles County Sheriff's Department," something that "He'll call you back," or something. He hung up the phone. At that time, all of the commotion had stopped. He came in there. He told me, he says, "What do you see?" I says, "I didn't see nothing." He says, "What did you hear?" I said, "What did you want me to hear?" He says, "Well--" He says, "I don't think you heard anything, did you?" I said, "Na, I didn't hear nothing." You know, putting myself in the clear with the deputy because at the time, I didn't want to lose my trusty job. I didn't want to become a victim, so he says, "Okay." He says, "Come out the laundry room." He says, "Put your hands in your pockets and when you come out, keep your head to the left." When I came out, I walked out the laundry room toward the booth with my eyes, my head, to the left. I didn't--I saw, with my peripheral vision, I saw all the deputies right there, but I didn't see the inmate, 'cause I couldn't look down. So, I went on up the stairs and they put me in-- I went to the Charlie--Charlie row day room where the trusties watch TV. The other trusty [redacted] was there. We talked for a minute and we never discussed what happened down there because he's more of a quiet type. He don't--you know, he don't really associate or talk to no one, so I minded my own business. Then after it was over with about five--anywhere from five or ten minutes after it was over with, a deputy came to the Charlie row gate and called

trusties. When he called trusties, I, myself and [redacted] jumped down off the bunks, went down to, back down to the sally port area. He says, "Put some gloves on and clean up that mess." I looked at [redacted] and I looked at the floor and it was a pile of blood right-- I mean just a big ol' thing of blood. [redacted] looked at me, grabbed some gloves and got a towel. I told [redacted] to sop up the blood with the towel, put it in a plastic bag, tie it up and take it down to the elevator chute and send it to the basement. That was it. It was on back to normal program. Got back on the phone. My wife asked me what happened. I told her, I said, "Man," I says, "Somebody just got the shit beat out of them." And she said, "For what?" I said, "I guess because he didn't want to lock it down." And my wife says, she said, "That's a shame." She says, "I heard it." She said, "I thought it was you at first." She's sorry--she said all that time they were beating--she said, they were beating on somebody. I said, "Yeah. All that time."

Bell

Q. How long do you think the beating was?

[redacted]

A. It had to go on for at least--anywhere from five to eight minutes.

Hamilton

Q. Okay.

[redacted]

A. Because, I don't know the guy, you I'm saying, just like I said, I don't know him. You know what I'm saying? He's a stranger to me.

Bell

Q. All these deputies come in at the same time when they came through the door?

[redacted]

A. Yep, they piled in, one behind each other.

Hamilton

Q. You mean two didn't arrive and then a couple of seconds later, a few more?

[redacted]

A. No, they were all piled in at the same--

Bell

Q. One big herd?

[redacted]

A. Yep.

Bell

Q. 15, 10, 15 deputies.

[redacted]

A. Yep. As if someone was killing another deputy in there or something, or there was a riot or something going on.

Hamilton

Q. Hmm. That's interesting. Okay, going back to what you said you saw the deputy with the inmate against the wall over-- What is it, Abel Charlie, right?

[redacted]

A. Abel Charlie, yeah.

Hamilton

Q. And you were standing by the phone, right?

[redacted]

A. Yeah.

Hamilton

Q. Could you see him from that position?

[redacted]

A. Yeah.

Hamilton
Q. Isn't it kind of obscured because it's off to the left?

[redacted]
A. But you can see--where the phone is, you can see right there. You can see--you can see just enough around that corner, from where the phone is.

Hamilton
Q. Okay. Just enough to see what? The deputy standing there or the inmate?

[redacted]
A. The deputy.

Bell
Q. The deputy?

[redacted]
A. The deputy.

Hamilton
Q. Okay.

Bell
Q. So, you can see the deputy, but not the inmate?

[redacted]
A. No.

Bell
Q. No, what?

[redacted]
A. You can't see the inmate, but I saw the deputy standing there.

Hamilton
Q. Okay.

[redacted]
A. I seen--like I said, I seen him. You know, as I recall-- You could see the deputy standing back with his arm extended and one foot planted and one foot in front.

Hamilton
Q. Okay. Was--was the deputy-- You said that he was standing by the Inmate Complaint drop-off box?

[redacted]
A. Yeah.

Hamilton
Q. Was it to the right or to the left of that box?

[redacted]
A. I think it was to the left of it.

Hamilton
Q. So, you're saying closer to the bar, the shower area.

[redacted]
A. No, no. Closer to the booth.

Hamilton
Q. Okay. Well, the booth-- Now you either had to be close to the main hallway in that sally port area or--

[redacted]
A. Yeah, close to the sally port area.

Hamilton
Q. Okay. And you saw this? Then you saw the deputy or the inmate came off the wall?

[redacted]
A. Yes.

Hamilton
Q. Did you actually see him come off the wall?

[redacted]

A. I seen him spin out into--into the middle of the sally port.

Hamilton

Q. Okay, and then he grabbed the deputy or what?

[redacted]

A. No, he just threw his arms up as if he was trying to get the deputy's hands off of him.

Hamilton

Q. Okay. And then, what did the deputy do then.

[redacted]

A. The deputy reached out and grabbed him by the shirt and went to sling him back up against the wall.

Hamilton

Q. Okay.

Bell

Q. The same wall?

[redacted]

A. Yeah.

Bell

Q. A different wall?

[redacted]

A. The same wall.

Hamilton

Q. And then what happened?

[redacted]

A. It went into like a ma- tango thing. The inmate come back around and the deputy went around with him and then, the inmate come back around again, and then they disappeared.

Bell
Q. Were they holding on to each other?

[redacted]
A. Yeah.

Bell
Q. How?

[redacted]
A. I don't know if the inmate was holding the deputy, but I know the deputy had the inmate by the shirt.

Hamilton
Q. You don't know if the inmate had the deputy. You didn't see that?

[redacted]
A. No, I didn't see it. I didn't see the inmate. I--I could--All I could tell was the deputy had the inmate by the shirt.

Hamilton
Q. Well, how come you couldn't see that the inmate had the deputy by, if they were going up and doing the tango? They were moving around. You were in a clear position. There wasn't anything in the way to obstruct your view, correct?

[redacted]
A. Well, that's true.

Hamilton
Q. I'm just asking.

[redacted]
A. Well, I don't recall. I cannot--I can't say if I saw the inmate holding or grabbing the deputy or not.

Hamilton
Q. Okay. And then they wound up going over there to the Baker

row, correct?

[redacted]
A. Yeah.

Hamilton
Q. And then, how long did it take for the deputies to respond after Kluth and this inmate started their altercation? How long did it take for the deputies to respond?

[redacted]
A. About two or three minutes.

Hamilton
Q. Two or three minutes? Then the gate popped the door, from the hallway popped, correct?

[redacted]
A. Yeah. Yeah.

Hamilton
Q. Popped open. And then you said anywhere between how many?

[redacted]
A. About 10 or 15 deputies.

Hamilton
Q. 10 to 15 deputies came in. While you were still on the phone?

[redacted]
A. Yep.

Hamilton
Q. Okay. Once they were--they all ran past you. They weren't even paying attention to you.

[redacted]
A. Nope.

Hamilton
Q. Really? Why is that? Why do you think?

[redacted]
A. Because the deputy that was in the booth had his flashlight and was pointing to where the other deputy and inmate was, flickering his light.

Hamilton
Q. So they didn't pay any attention to you?

[redacted]
A. No.

Hamilton
Q. Bad police tactics. They're going to run right past you, not knowing that you're involved or not?

[redacted]
A. That's what happened.

Hamilton
Q. Oh, okay. Well, we're going to have to educate these guys. But, anyway, and then you just simply went across into this room?

[redacted]
A. Into the room, yeah.

Hamilton
Q. Okay. Just a-- let you see these-- Okay, and you stayed there, correct?

[redacted]
A. Yeah.

Hamilton
Q. And then you said that you were peeking to see what was going on?

[redacted]
A. Yeah.

Hamilton
Q. Could you see through there?

[redacted]
A. Yeah. There's a cage right there.

Hamilton
Q. Right. Kind of like this one?

[redacted]
A. Exactly.

Hamilton
Q. Okay. And that was open. And you can see through there?

[redacted]
A. Yeah.

Hamilton
Q. And you saw exactly what was going on with these deputies and this inmate?

[redacted]
A. I didn't see exactly what was going on, but I saw the deputies-- I saw the deputies-- I saw the inmate first and then I--

Bell
Q. Is this on the opposite side from this?

Hamilton
Q. Yeah. This is on the same--. This should be right here. Let me see. It should be right in here.

Bell
Q. Like this?

Hamilton
Q. See, there is the board right there on that other picture. That's it.

Bell
Q. Oh, so it's around the corner.

Hamilton
Q. Right.

Bell
Q. Okay, I see.

Hamilton
Q. That's where they started, where John is standing. That's where the fight started.

Bell
Q. Okay.

Hamilton
Q. And then they worked their way over to the other side.

Bell
Q. This way.

Hamilton
Q. Right. Okay, so you said that you peeked out of this room and what did you see?

[redacted]
A. I saw the deputies pounding on this inmate.

Hamilton
Q. What does that mean?

[redacted]
A. Beating him. I mean, punching and kicking him.

Bell
Q. Did you see the inmate?

[redacted]
A. On the ground.

Bell
Q. You could see the inmate?

[redacted]
A. Couldn't see his whole body, but I could see his, like from his waist down.

Bell
Q. Okay.

[redacted]
A. From around the corner.

Bell
Q. What other deputies were kicking or hitting him?

[redacted]
A. They were kicking and hitting him and he kept hollering, "Okay, I'm down."

Bell
Q. Where? Where?

[redacted]
A. I don't know exactly where.

Hamilton
Q. You--you didn't see where they were kicking him?

[redacted]
A. No.

Hamilton
Q. You could see that the inmate--?

[redacted]
A. I could see the inmate moving around.

Hamilton
Q. Uh-huh.

[redacted]
A. I could see the deputies swinging. I could see the deputies kicking. And I could hear the deputies saying, "Stay down, mother fucker," and I could hear the inmate saying, "All right, I'm down, I'm down, I'm down." But the deputy kept saying, they kept screaming. I mean, it's a lot of commotion going on right there.

Hamilton
Q. Sure. But you never saw what deputy did the kicking or where they kicked him?

[redacted]
A. No.

Hamilton
Q. Why not?

[redacted]
A. I wasn't paying that much of attention. I was peeking as it was.

Hamilton
Q. So you can see where the inmate is positioned. You can see that half of his torso, but you're saying that you couldn't see where the deputies were kicking this guy? And there's no obstruction, correct? It's a clear shot?

[redacted]
A. It's a clear shot, but I could only see partial of his body from where they were.

Hamilton
Q. Well, did you see him from his waist up or did you see him

from his--

[redacted]

A. Like from the waist down. From his feet were moving.

Hamilton

Q. So, would it be fair to say that they were kicking above his waist or--?

[redacted]

A. Yeah. Yeah. Above his waist.

Hamilton

Q. Are you sure? I'm not putting, you know--

[redacted]

A. No, no, you're not putting on-- I'm-- No, I mean-- now that you say it-- It's logic. If I could see his feet and they weren't kicking his feet or his legs, it's his upper part of his body.

Hamilton

Q. We're not talking about logic here. We're talking about what you saw. You know, what--

[redacted]

A. Well, I didn't see them kicking no part of his body.

Hamilton

Q. Okay. How many deputies were kicking him and punching him?

Bell

Q. And you can see from, never mind, I'll wait. Answer that question.

[redacted]

A. I can't say how many deputies were kicking.

Hamilton

Q. Was it one?

[redacted]

A. It was more than one. It was a few.

Hamilton

Q. Five?

[redacted]

A. I can't put a number on it.

Bell

Q. The rest of them were standing around watching?

[redacted]

A. Some of them were and some of them--

Bell

Q. Obviously ten people--It's pretty had for ten people to get on one guy.

[redacted]

A. Yeah, I mean, some were standing there watching, some was participating.

Bell

Q. Uh-huh. Okay, now you can see the inmate from the waist down?

[redacted]

A. Yeah.

Bell

Q. And you watched the end of the fight?

[redacted]

A. I didn't--I didn't watch--I didn't get to see--I didn't get to see all of it, because when I was-- Like I said, when I was looking and the deputies--the deputy came back around the corner, he told me to turn around and face the wall.

Hamilton
Q. What corner?

[redacted]
A. From where they were.

Bell
Q. He sees you peeking.

[redacted]
A. Yeah, he sees me looking from the laundry room, comes around and tell me, "Get your face up against the wall and put your nose in that corner and don't move."

Bell
Q. Okay. Do you see an inmate handcuffed?

[redacted]
A. Nope. The only thing I see--

Bell
Q. From your position from where you said the inmate is, could you have even seen the inmate handcuffed?

[redacted]
A. No.

Bell
Q. So, if he was handcuffed, you would not have known.

[redacted]
A. No.

Bell
Q. Because you can't see his hands.

[redacted]
A. No.

Bell
Q. Okay. What did you see, his waist?

[redacted]
A. Yeah. From his feet. I see his legs.

Bell
Q. Okay. Do you see his waist?

[redacted]
A. No, I don't exactly see his waist.

Bell
Q. You just see his--

[redacted]
A. From his feet--

Bell
Q. What did you see? From his feet to...

[redacted]
A. To about his--

Bell
Q. ...knees? His mid-thigh?

[redacted]
A. From about his mid-thigh. Around in that area.

Bell
Q. Okay. So you don't. You don't see his waist.

[redacted]
A. No.

Bell
Q. Okay. Do you see any deputies grab his feet? His legs?

[redacted]
A. Nope.

Bell
Q. Did you see anybody sit on his legs?

[redacted]
A. No.

Bell
Q. So his legs weren't restrained at all. They were just there.

[redacted]
A. Yeah. I say, I saw the little bit of what I told you, that's when the deputy came around the corner and the only thing I saw after that was when the deputy came out. Oh, but-- I don't think I said this, but the deputy that was in the booth, popped the door open and was saying something to another deputy and he kept saying, "get you some." And the other deputy backed up and I could hear. I heard another deputy said "Naw, It's already under control." He said, "Well, come cover the booth while I get me some." The deputy left out the booth and went and participated with what was going on.

Hamilton
A. And you saw that?

[redacted]
A. That's from when I was peeking.

Hamilton
Q. Okay, you saw-- You can actually see, from where you were peeking-- You were looking-- When you said you were peeking, you were looking through that screen?

[redacted]
A. Yeah.

Hamilton
Q. Is that right? You can actually see the booth from that screen?

[redacted]
A. Yep.

Hamilton
Q. From your peeking?

[redacted]
A. Yep.

Hamilton
Q. Okay, and what was the lighting like?

[redacted]
A. It was lit up. The lights were on.

Hamilton
Q. Uh-huh.

[redacted]
A. The row. The living--the living quarter rows was off. The lights were off down there, but the sally port area was lit up.

Hamilton
Q. Who were the deputy participants?

[redacted]
A. I don't know none of them by name.

Hamilton
Q. How long were you a trusty?

[redacted]
A. About two months.

Hamilton
Q. You don't know any of the deputies?

[redacted]

A. The only one I knew was our deputy was Deputy Kluth.

Hamilton

Q. There was no other 4000 personnel?

[redacted]

A. Not that I know of. If there was, I didn't-- I mean, I don't know-- Like I say, I don't work that shift. That was the early morning shift. I happen to be out that night using the pay phone.

Hamilton

Q. Uh-huh.

[redacted]

A. I don't know the deputies on that shift.

Hamilton

Q. Do you ever get out of the cells in the early morning shift?

[redacted]

A. No.

Hamilton

Q. You were out using the phone, weren't you? Wasn't that early morning shift?

[redacted]

A. Yeah.

Hamilton

Q. You never called your wife after you get off as a trusty on the P.M. shift?

[redacted]

A. No, because Deputy Kluth locks us up when he comes in. Very seldom, he'll let us in there. He'll let a P.M. trusty

out. See, I'm an A.M. trusty.

Hamilton
Q. Okay.

[redacted]
A. And I have to wait for the P.M. trusty to finish their phone time.

Hamilton
Q. Okay.

[redacted]
A. And when Deputy Kluth comes on-- I asked him, I says, "Hey, Kluth, could I get a few minutes on the phone." He says, "Yeah, go ahead." He'll let me use the phone or whatever and then after that he'll lock us down.

Hamilton
Q. Okay. What time do you start your shift?

[redacted]
A. I usually start my shift at [redacted] in the morning.

Hamilton
Q. Okay. [redacted]? Is it always at [redacted] or is it maybe a little before [redacted]? What time do you get up and actually have a chance to get out of the cell?

[redacted]
A. About--about a quarter after [redacted], [redacted].

Hamilton
Q. That's when you get out?

[redacted]
A. Yeah.

Hamilton
Q. You don't get out before when you start at [redacted]? Okay.

What time does the deputies get off? Early morning deputies.

[redacted]

A. I'm not for sure if it's [redacted] or [redacted], but I know when I wake up in the morning, I get dressed. I do my little hygiene. My--the deputy was a county worker, she used to work our shift. She's normally on and early morning shift is gone.

Hamilton

Q. Okay. So, you-you're telling me that you don't know any of those deputies that ran in there. You never--you've been there--in that module for two months--

[redacted]

A. I've been in the module for six months, but I only had the job for two, like two and a half months.

Hamilton

Q. Okay, and you-- Deputy Kluth has been the module, the only module officer in that module?

[redacted]

A. No, he--he had just came maybe about a month, month and a half before.

Hamilton

Q. Okay. How--go ahead.

[redacted]

A. And other than that-- I only know the early morning deputies that work in that module is Perez. It used--it used to be Perez and Garcia, but they left, or they only work, I think, two days out of the week. Deputy Kluth became the permanent module officer in the early mornings. So, I wouldn't know none of the deputies that came in there on that early morning shift because I don't be out that time of night.

Hamilton

Q. Okay. Did you--So you don't even know the floor prowlers?

[redacted]
A. Nope.

Hamilton
Q. Who walks down your-- Does anybody walk down the row to check on you guys?

[redacted]
A. They walk the catwalk.

Hamilton
Q. While you were there, did you see a senior [deputy] or sergeant?

[redacted]
A. Nope.

Hamilton
Q. No, you never saw them?

[redacted]
A. I saw a senior or sergeant.

Hamilton
Q. How about medical staff?

[redacted]
A. Yeah, I seen a nurse that came down with a gurney.

Hamilton
Q. And where were you when you saw that?

[redacted]
A. In the day room.

Hamilton
Q. Okay. And you didn't see the senior or sergeant?

[redacted]
A. Not that I recall. I didn't see no stripes.

Hamilton

Q. Okay. Do you remember any deputies specifically striking the inmate, kicking him in the groin? Did you see anybody do that?

[redacted]

A. No.

Hamilton

Q. Okay. Did you actually see any deputy make contact with the inmate's body? Actually striking, punching, kicking? Did you actually see that?

[redacted]

A. Deputy Kluth.

Hamilton

Q. What did you see Deputy Kluth do?

[redacted]

A. I saw him swing his flashlight with him and the guy were going in circles.

Bell

Q. Did he hit him?

Hamilton

Q. Okay.

Bell

Q. Or miss?

[redacted]

A. I don't know if it connected or not.

Bell

Q. Okay.

Hamilton

Q. And-- But, you didn't see him strike him, right?

[redacted]

A. No. I saw him swing his flashlight.

Hamilton

Q. Okay. Did you see anybody else actually strike the inmate?

[redacted]

A. No.

Hamilton

Q. Okay. You seem like you're thinking, 'go ahead--.'

[redacted]

A. Uh-huh. I was trying to think. I don't--I don't know. I didn't.

Hamilton

Q. Okay. How many times did you actually "peek" at this incident?

[redacted]

A. Twice.

Hamilton

Q. Twice? And how long?

[redacted]

A. Brief.

Bell

Q. What is brief?

[redacted]

A. About four, 15 and 30 seconds, just like look and then--

Hamilton

Q. Was there any deputies standing by the screen?

[redacted]

A. After they had pulled me into there-- After, after they had came and put my face, told me to put my face against the wall, then a deputy stood there.

Hamilton

Q. Okay. Did you see any deputies standing at the--the door?

[redacted]

A. Nope.

Hamilton

Q. The main door, I'm talking about. The door from the hallway.

[redacted]

A. Nope. I saw one. Yeah, it was open.

Bell

Q. So, somebody had to be holding it open.

[redacted]

A. No, it's open on its own. It stays--

Bell

Q. It stays open by itself?

[redacted]

A. Yeah. No you have to put-. It's a wind turbulence.

Bell

Q. Right.

[redacted]

A. That comes off those modules.

Bell

Q. Right.

[redacted]

A. And the door stays open. If it--If you pop it open-- When they pop it open from control, it stays open unless you pull it slam. Pull it and slam it.

Hamilton

Q. Okay. Let me--let me ask you something. Now, keep in mind. We've talked to about ten to twenty people already about this particular incident. Let me just say this. What if I said that there's people, more than one, that have told us that as soon as this incident went down with Deputy Kluth and the inmate and that door popped open, you ran out to the hallway and people saw you out there in the hallway?

[redacted]

A. That'd be a lie.

Hamilton

Q. Why is that?

[redacted]

A. 'Cause I stayed on the phone with my wife.

Hamilton

Q. Well, I mean, you were on the phone. They said that. But then, all of a sudden, when the thing went down, that you ran out in the hallway which is, from working here myself and dealing with trusties and so-and-so, it's common, because they don't want to be in the way of the deputies. You don't want to be in the wrong place at the wrong time. So, that wasn't unreasonable.

[redacted]

A. No. That--that would be a lie.

Hamilton

Q. Okay.

Bell

Q. Where's the laundry room door in comparison to the phone?

[redacted]

A. If I was sitting in your direction facing me, the phone--the laundry room would be to the left.

Bell

Q. Okay.

[redacted]

A. Not directly.

Bell

Q. In comparison with the front door of the module, where are the three, the front door, the phone and the laundry room door?

[redacted]

A. It goes like in a mid-circle. The phone right here, the door right there and the laundry room right here.

Bell

Q. So, the phone is closer to the front door than the laundry room door?

[redacted]

A. Yeah, if you-- Yeah, because the laundry room is on the opposite side of the hallway.

Bell

Q. Okay. So, if it-- Like the door is here, the phone's--

[redacted]

A. --The phone's right here and the laundry room's right there.--

Bell

Q. --over there and the laundry room's right on the other side?

[redacted]

A. Yeah.

Hamilton
Q. What's that room in front of Bravo room. Is that like a storage room?

[redacted]
A. It's a utili-

Hamilton
Q. Utility box? Okay.

[redacted]
A. Utility room.

Hamilton
Q. Okay. Okay. All right. So you saw 15--ten to 15 deputies running in there and the only person that you can identify is--?

[redacted]
A. Kluth, by name. Yeah.

Hamilton
Q. Okay. Who else can you identify?

[redacted]
A. That's it.

Hamilton
Q. If we showed you some pictures, would you be able to identify anyone?

[redacted]
A. I mean, all I can--try--you know, I can try and refresh my memory and look and see if I remember any of the faces because-- So, I went through--I went through the same thing with Sergeant Nemeth.

Hamilton
Q. Uh-huh.

[redacted]

A. And I picked out a few photos for him. I don't know if I was correct or not, but I tried to be--

Hamilton

Q. Sure.

[redacted]

A. --as more as, you know, I tried to be as honest as I could.

Hamilton

Q. And we appreciate that. Okay. Did you tell your old lady what happened? That what you saw?

[redacted]

A. Well, I didn't. She asked me what was going on.

Hamilton

Q. Uh-huh.

[redacted]

A. After I called her back. After everything was over with, she asked me what-- She said, "What happened?" I said, well, I says to her, I said, "Some deputies just beat the shit out of a guy."

Hamilton

Q. Okay.

[redacted]

A. And she say for what? I said, I guess he didn't--he didn't want to lock it down. She says, "Oh, my God." She says, "I thought it was at you at first." She said, "The way you jumped off the phone--"

Hamilton

Q. Right.

[redacted]

A. She said, "Then some guy get on the phone." She said,

some-- She said some guy got on the phone telling me that he's a sheriff and that your husband will call me, she said that he said, "Your husband will call you later."

Hamilton
Q. Okay. Is anybody else--? Can you describe anybody that you saw hitting the deputy?

[redacted]
A. No.

Hamilton
Q. You can't describe him? Tall, short? Thin, fat? White, Black?

[redacted]
A. The guy--the guy that got it to him with the deputy was like, about thin.

Hamilton
Q. Are you talking about the inmate?

[redacted]
A. Yeah.

Hamilton
Q. Well, we know who he is.

[redacted]
A. Oh, well, I don't know then.

Hamilton
Q. You don't have a problem talking to us, do you?

[redacted]
A. No, I don't have a problem.

Hamilton
Q. You're sure? You're sure?

[redacted]
A. Yeah, I'm sure.

Hamilton
Q. Okay. If the deputies up there in, or any place in this facility, if you witness the deputies beating an inmate, doing something inappropriate, and you were contacted by a supervisor, would you tell them what happened? Be honest. It's no big deal, either way.

[redacted]
A. Well, you know, I mean, I was taught as a kid, you know, somethings is better unsaid. But, I mean, it may sound strange coming from me being locked up in jail, you know what I'm saying a criminal of being honest, but I have been pretty fair, you know what I'm saying--

Hamilton
Q. Uh-huh.

[redacted]
A. --in a lot of situations. Not just in here, but on the streets also. You know, if I see something that's wrong, my parents told me, you know what I'm saying. Regardless of what it is, you don't stand up for nothing that's wrong. You know, and how I take--how I took that is because when I was a kid, I was--you know, I was getting into trouble as a teenager whatever, when I would run home and the cops would chase me. My mom and dad would throw me back out there, and she says, "Look, we're not going to uphold you and all your bull shit."

Hamilton
Q. Right.

[redacted]
A. You know, you go out there and you cause trouble and you want to bring the cops here, so--

Hamilton
Q. That's fair. I--I like that.

[redacted]

A. You know, then sometimes my mom would pamper me, you know what I am saying. If I really put on a big story and told her, "Hey look, I didn't do nothing," you know, she would like, "Well, go back there and sit down and I'll talk to 'em." But, if they convinced my mom that I had done something, she'd bring me out. So, I'm--I'm the same way, you know what I'm saying? I've got kids right now, you know what I'm saying. I've got a daughter that's ten years old and I try to be as fair as I can in life because I want life to be fair to me.

Hamilton

Q. Right.

[redacted]

A. You know, I wouldn't make up nothing that I didn't see or didn't hear.

Hamilton

Q. Okay.

[redacted]

A. And no event or no situation, you know what I am saying? Because I wouldn't want the same thing to be brought upon on me.

Hamilton

Q. Okay. So, let me ask you point-blank. Did you see what you said that you saw or not? Now, I want you to think about it for a second. I'm not saying that I don't believe you, but I want to just give you a chance and make sure that everything that you told us was the complete truth. Not from what you heard. Not--you're not adding things from what you heard from other people or what you assumed happened or whatever. I want to make sure that these are actual things that you saw.

[redacted]

A. Well everything I told you is the truth.

Hamilton

Q. Okay.

[redacted]

A. I mean, I'm not--I don't have no reason to lie, you know what I'm saying? For neither side.

Hamilton

Q. Okay. I appreciate it.

[redacted]

A. I don't even know the deputy, you know what I am saying? I don't mean--I'm not--I'm--like I say, you know, I spoke to you when I first came in here. I came to jail by myself.

Hamilton

Q. Right.

[redacted]

A. I don't got nobody, you know what I'm saying? I got my family out there but I'm talking about as far as in here, I'm on my own.

Hamilton

Q. Right.

[redacted]

A. I don't have no reason to cover-up for nobody.

Hamilton

Q. Okay.

[redacted]

A. And I was an actual witness and I told you what I saw.

Hamilton

Q. Okay. But you're saying that you couldn't identify any of the deputies?

[redacted]

A. I mean not--I mean not just by name, by photos I probably--you know, I might--you know, I probably could recollect in my memory, you know, faces if I--if I saw them.

Hamilton
Q. Uh-huh.

[redacted]
A. You know, it's been bugging me since this happened. It's a name of a deputy that I saw his name tag. He was sitting on the crate that I was sitting on when I was using the phone, and he was rubbing his knuckles, like trying to soothe the pain of his hand. I looked at his name tag, but I can't remember it. I've been trying ever since this incident.

Hamilton
Q. And that was after the--the beating was over?

[redacted]
A. Yeah.

Hamilton
Q. Okay.

[redacted]
A. That was the deputy that told me to put my nose on the wall. That's the one that I told to tell my wife I'll call her later.

Hamilton
Q. Okay. Didn't you say earlier that, well, forget that. Okay. Anything else?

[redacted]
A. That's it.

Hamilton
Q. And you say that you briefly talked to [redacted] about it right after when you--they sent you up to the day room?

[redacted]
A. Yeah, but he didn't have nothing to say.

Hamilton
Q. Okay. Did you talk to anybody else about this?

[redacted]
A. No. That's it. Nobody but Sergeant Nemeth.

Hamilton
Q. How about the other trusties?

[redacted]
A. No. They just asked me the next morning what happened? I was just like, an inmate and the deputies. I mean, I didn't go into no details about what happened or--

Hamilton
Q. Who did you talk to about that?

[redacted]
A. It was a little Cuban dude, [redacted].

Hamilton
Q. [redacted]?

[redacted]
A. [redacted].

Hamilton
Q. Okay. Where is he at right now, do you know?

[redacted]
A. I think he's in a pill module. I think he's still there.

Hamilton
Q. Okay. And he was a trusty?

[redacted]
A. Yeah.

Hamilton
Q. What? What dorm is he in? 44?

[redacted]
A. 4400 Module.

Hamilton
Q. What row?

[redacted]
A. Not for sure.

Hamilton
Q. How about the other trusties?

[redacted]
A. No, I didn't mention nothing to no one else.

Hamilton
Q. Okay. You guys didn't chit-chat with anybody else? Is anybody else around? Any civilians? Anybody else that we can talk to as a possible witness? Did you see anybody, in the showers? Day rooms? Hallway?

[redacted]
A. No.

Hamilton
Q. Did you hear any deputies scream, you know, "Spread his legs, let's kick him," or did you hear any deputies say, "Beat him," or--

[redacted]
A. No, I just. Nope, no, nothin' like that.

Hamilton
Q. Okay. Did you see Kluth after the incident?

[redacted]
A. Nope. I didn't see Kluth for a couple of days after that.

Hamilton
Q. You said that you have a record. What kind of record do

you have?

[redacted]
A. [redacted] that's escalated to different charges.

Hamilton
Q. You've been found guilty of [redacted] twice, correct?

[redacted]
A. Yeah.

Hamilton
Q. Okay. And what else? You just--

[redacted]
A. I got a couple of [redacted] on my rap sheet. A [redacted].

Hamilton
Q. Okay. And have you been sentenced?

[redacted]
A. Yeah.

Hamilton
Q. To what?

[redacted]
A. 25 years to life?

Bell
Q. Any assaults?

[redacted]
A. In this incident in 1990, they give me an [redacted]. But it was dropped. I wasn't charged with it.

Bell
Q. You were arrested for it?

[redacted]

A. Yeah, they give me [redacted], [redacted], and [redacted]. They dropped the [redacted]. They dropped the [redacted]

Bell

Q. Rapes?

[redacted]

A. None of that. Nope.

Hamilton

Q. Okay. You're saying you have --also, you have some medical problems? Are you taking any medication and what are the problems that you have?

[redacted]

A. Well, I got a-- I got a block in the main articular vein from-- in my heart that pumps blood. I take blood pressure medication for that. And I take a water pill that also levels my blood pressure out that relieves the water weight from my body. And I take a sinequan which is a sleeping pill, 'cause I was sleeping with this, so I can't sleep at night. And I take a couple more, it's like (inaudible) meds.

Hamilton

Q. Which is what, per se?

[redacted]

A. Lithium, artane and navane.

Hamilton

Q. Because of--? You've been diagnosed?

[redacted]

A. Yes, the diagnosis. The psych, all he said-- He says it's a reaction from drugs, which it probably is, you know, PCP.

Bell

Q. What kind of reaction?

[redacted]
A. It's a--paranoia schizophrenic and like hearing voices.

Bell
Q. So you're--you've been diagnosed with paranoid schizophrenic and you're taking medication for that?

[redacted]
A. Yeah.

Bell
Q. And according to the doctor?

[redacted]
A. According to the psych.

Bell
Q. All a reaction from your past dope use.

[redacted]
A. Yeah.

Hamilton
Q. And that was PCP and what else?

[redacted]
A. Cocaine.

Hamilton
Q. You smoking or snorting?

[redacted]
A. Snorting.

Hamilton
Q. Okay. When was the last time you did drugs?

[redacted]
A. I haven't done drugs since 1990.

Hamilton
Q. Okay. Anything else?

[redacted]
A. That's it.

Hamilton
Q. Okay. Ron, do you have anything?

Bell
Q. Uh-uh.

Hamilton
Q. Okay, we're going to end this interview at 1645 or 46 hours.

END OF INTERVIEW

I/M [redacted]

I.A.B. INTERVIEW 11-17-94

WITNESS INTERVIEW

CASE NUMBER IAB 008383

[redacted]

Nemeth
Q. Okay. Today's date is Thursday, November 17, 1994. The time is 2025 hours. I'm Sergeant John Nemeth. I'm a sheriff at Internal Affairs. Interviewing inmate [redacted] whose first name is [redacted]. Booking number [redacted]. Regarding IAB case number 008383. Mr. [redacted] before going on tape I briefly asked you about the fact of whether or not you had any problems with deputies or any type of retaliation occurred because you talked to me several weeks ago. Would you please repeat what you told me before we started the tape?

[redacted]
A. About two days later after you guys left two cops jammed me up and wanted to know what was said during the interview with the detectives. And I just basically stated to them, to clear my own self with them, to not be harassed, that--the same thing I told them the night--that same night. I didn't see nothin'.

Nemeth
Q. Okay. Do you, do you remember what time it was when you were contacted by these two? Is it two deputy sheriffs?

[redacted]
A. Yes, it is.

Nemeth
Q. Okay. Do you remember what time it was? Was it a late shift if you go by shifts or whatever?

[redacted]
A. It was about--it had to be about 11:30 or quarter to 12, because I was on my way down to get my asthma pump, my inhaler.

Nemeth
Q. In the afternoon? What time was it?

[redacted]
A. In the night. In the night.

Nemeth
Q. Midnight then?

[redacted]
A. Yeah.

Nemeth
Q. Close to midnight?

[redacted]
A. Yeah.

Nemeth
Q. Okay. Is that the same shift or did you recognize either of those individuals from having been present or involved in the first incident?

[redacted]
A. Yeah. Yeah they were.

Nemeth
Q. Okay. And were they--can you tell me what they did if you know or?

[redacted]
A. They just--you know, basically just harassed me, that's all.

Nemeth
Q. I mean in the [redacted] incident, that particular time.

[redacted]
A. Oh. They (inaudible) what they call the smashing crew.

Nemeth
Q. Smashing crew?

[redacted]
A. Yeah. They were the ones that, so they say, put this inmate under control.

Nemeth
Q. Did you personally see them do anything that night?

[redacted]
A. Like I said, I didn't--that night--I saw the incident when it first occurred.

Nemeth
Q. Right.

[redacted]
A. But then I was in the laundry room--off the corner--you can't, you can't see nothin' from that angle. But I heard a lot of scuffling.

Nemeth
Q. Okay.

[redacted]
A. And there had to be about--at least ten deputies there at the time.

Nemeth
Q. Were these two deputies that you said talked to you after I visited you, were they part of that group that was there at the time?

[redacted]
A. Yes, they were. Yeah.

Nemeth
Q. But you couldn't tell exactly what each of them did at that time, is that right?

[redacted]
A. No.

Nemeth
Q. Okay. What I'm gonna do for you today is ask you to read this waiver form which talks about--I'll read it to you aloud. You'll be asked to looked at a group of photographs. The fact that the photographs are shown to you should not influence your judgment. You should not conclude or guess that the photographs contain the picture of the person who committed the crime or offense, what we're talking about in this case. You are not obliged to identify anyone. That means you don't have to identify anyone. It is just as important to free innocent persons from suspicion as to identify guilty parties. Please do not discuss the case with other witnesses or indicate in any way that you have identified someone. And then there is a place for you to sign. It says, I hereby certify that I have read the above paragraph fully and understand its contents. Would you sign your form and put the date on there? Okay. You are ready to sign the form and what I'm going to ask you to do now is take a look at a series of photographs that I have and

keep it in mind what we just read on the form. You don't have to identify anyone. I want you to just look at each picture and tell me if you recognize anybody there in the pictures that may have arrived at the scene that night in module 4400 to help subdue or control or whatever you want to say to the inmate [redacted]. Do you recognize anybody in folder "A"? You take your time and look at each picture.

[redacted]
A. This one looks kind of familiar.

Nemeth
Q. Okay. Do you remember him being there that night? You pointed to number five.

[redacted]
A. I'm not sure. Four and five they lock--they faces look almost as someone I saw that night.

Nemeth
Q. Four and five?

[redacted]
A. Yes.

Nemeth
Q. Together?

[redacted]
A. Yes.

Nemeth
Q. Okay. What I'll do now is give you a, give you a Xeroxed copy of that same folder "A", and ask you to circle the people you have identified and then write what you told me, that you think they were both there that night.

Cornell
Q. And then sign your name on it.

[redacted]
A. I guess that pen is running out of gas. Let's try this one. Running out of pens today. Try this one and see if that one's any better.

Nemeth
Q. So, (inaudible) I think these two photos--the people in the

photos were there, is that what it is? Is that what you're saying? You don't, you don't agree with what I say, that's fine. Were they there or whenever?

LONG PAUSE WHILE [redacted] IS CIRCLING PHOTOS AND WRITING INFORMATION

(inaudible sounds and voices)

Nemeth
Q. Okay. You wrote, I think these two photos look like the deputies that were there the night of the incident. Are you certain that you could say, "yes they were there" or, or--how certain are you?

[redacted]
A. I'm almost--I'm certain number five.

Nemeth
Q. Okay. Certain on number five and how about number 4?

[redacted]
A. It's a maybe.

Nemeth
Q. Maybe on number four. Okay. All right. Now I'll show you folder number "B", letter "B". Do you recognize anybody that may have been there this night, that night?

[redacted]
A. I'm sure.

Nemeth
Q. Folder number 3 for sure? And, and what role did he have in the incident, if you know?

[redacted]
A. He was the, I would say the main participant.

Nemeth
Q. The main participant?

[redacted]
A. Yes.

Nemeth
Q. What did he do?

[redacted]
A. He's the one that start--he's the one the incident occurred with. Then he started using his flashlight.

Nemeth
Q. He was using his flashlight?

[redacted]
A. Yeah.

Nemeth
Q. You saw him hitting?

[redacted]
A. Yeah, I saw him when the guards went off the wall, I say him grab his flashlight.

Nemeth
Q. Did you see him hit him with it?

[redacted]
A. I saw him swing.

Nemeth
Q. But did you see him hit him with it? I guess is the question. Conceivably, you could swing and not hit. Just say what you know, I mean, I'm not asking for you to add things or to subtract things. We're looking for the truth.

[redacted]
A. --I saw--I saw him fist, I saw him and the guy fist blowin'. Throwin' fist blows.

Nemeth
Q. Fist blows? At what point?

[redacted]
A. At the initial contact.

Nemeth
Q. Was, was he the, the deputy that placed the inmate on the wall?

[redacted]
A. Yes. Yes.

Nemeth
Q. He was?

[redacted]
A. Yes.

Nemeth
Q. Do you know his name?

[redacted]
A. Kluth.

Nemeth
Q. Do you know his name? Oh, if you know there names, just go ahead and write the name, Deputy Kluth and we can write what, what--tell me if he was an initial participant or whatever he is? Do you know any of these other person's names in, in folder "A". Did you know any of these persons names that you circled?

[redacted]
A. No. No.

Nemeth
Q. Did you know anything they did that day or you just saw them there?

[redacted]
A. I just saw them there.

Nemeth
Q. Okay. Did you see either of these two people in fold--in folder "A" hit inmate [redacted]?

[redacted]
A. No. That's it.

(Long Pause)

Nemeth
Q. Okay. On folder "B" what you've done is circled number 3 and you've written Deputy Kluth. "He's the one that was in combat with the inmate at first. I saw him the inmate with his fist." Okay now, you mentioned something about a flashlight. Did you see him use a flashlight or, or not?

[redacted]
A. That's why I didn't write it down because I wasn't for sure--I

saw him draw his flashlight, but I don't know if I saw him actually hit him with the flashlight, but I saw him when he swung with his fist with his opposite hand.

Nemeth
Q. Okay. And the flashlight was in the other hand there?

[redacted]
A. Yeah.

Nemeth
Q. Do you remember which hand was which or, or not?

[redacted]
A. The flashlight was in his right hand.

Nemeth
Q. And he punched him with his left hand?

[redacted]
A. Yeah.

Nemeth
Q. Did the punch land on him?

[redacted]
A. Yeah. Yeah.

Nemeth
Q. Do you know where, where it hit [redacted]?

[redacted]
A. Somewhere in the face.

Nemeth
Q. Somewhere in the face? Okay. Is [redacted] punching back?

[redacted]
A. No. He was just--his arms was just swinging wild but he wasn't, didn't (inaudible) so--

Nemeth
Q. Was he in a boxing step. Explaining as he goes, is that about right?

[redacted]
A. Yeah.

Nemeth
Q. Like in front of him?

[redacted]
A. Yeah.

Nemeth
Q. Okay. Go ahead and sign your name on the letter "B", letter "B" there. Additionally, I just want to mention to you while we are looking at these pictures, if you see anybody who talked to you after I left the first time I want you to let me know that too, okay? All right. So lets--now I'll show you folder "C". Do you see anybody you recognize in folder "C"? I'm gonna turn off the tape to save some tape here. Okay. On folder "C", you started tapping photo number four with my pen. Is that--are you making an identification?

[redacted]
A. Yeah. On number four.

Nemeth
Q. Do you know his name?

[redacted]
A. No, I don't.

Nemeth
Q. Was he there that night?

[redacted]
A. I (inaudible) he looks familiar from that incident.

Nemeth
Q. Do you know what he did? If anything that day or that night, rather?

[redacted]
A. He had to be--I don't know--I can't say he did anything, but the only thing I can is--all--this is what I'll--this is what, this is what I feel. The deputies that were there was involved physically in this incident.

Nemeth
Q. You figure that everybody that was there did something?

[redacted]
A. They did something.

Nemeth
Q. Whether you know exactly what it is or not?

[redacted]
A. Because you could hear it.

Nemeth
Q. That's fine. But could you--what I'm asking is with your own eyes did you see this particular individual--

[redacted]
A. --No--

Nemeth
Q. --number four do anything?

[redacted]
A. No. But I saw him there on the right (inaudible) leavin,' yeah.

Nemeth
Q. You saw him there leaving after it was over. Did you see him arrive?

[redacted]
A. No.

Nemeth
Q. You don't remember. Did you see him alive. Okay we're talking about the person in position number four on folder "C". Do you know his name?

[redacted]
A. No I don't.

Nemeth
Q. Okay. You can just say he was there and sign your name. That's fine. Or whatever else you might want to write as a note to me or to yourself about what you saw this person do. Okay. I'm gonna save some tape here. Okay. You've written on folder "C", position four circled. "He was there but I didn't see him hit the guy." You signed your name. Okay. Now I'll show you folder "D" with some photographs in it. Look at folder "D", take your time. See what you can see.

[redacted]
A. Three and Five.

Nemeth
Q. Three and five you are identifying?

[redacted]
A. Yeah.

Nemeth
Q. Okay. Do you know any of those peoples names--persons names?

[redacted]
A. No I don't, but I know three and five was there.

Nemeth
Q. Three and five were there. Okay. Do you know what--are you certain both three and five were there, first of all?

[redacted]
A. Almost positive.

Nemeth
Q. Okay. Almost positive on both?

[redacted]
A. Yes.

Nemeth
Q. Okay. Are you more sure of one than the other or are you certain of both of them?

[redacted]
A. I'm more certain of five.

Nemeth
Q. You're more certain of five than you are three?

[redacted]
A. Yeah.

Nemeth
Q. Okay. Do you know what five did--if you remember seeing five arrive or?

[redacted]
A. I didn't see him arrive, but I saw him standing around as the incident settled down.

Nemeth
Q. Okay.

[redacted]
A. And basically, you know, basically it was the same--everyone that was there after it was all over with--they were either straighten their pants out or rubbin' their fists.

Nemeth
Q. As if they had been involved in an incident?

[redacted]
A. In an incident, yeah.

Nemeth
Q. Okay. Did you see five do anything with your own eyes?

[redacted]
A. No I didn't.

Nemeth
Q. Did you see one of the people straightening his pants or rubbing his fist?

[redacted]
A. Like I said, every deputy that was there was--

Nemeth
Q. --Was doing (inaudible)--

[redacted]
A. --(inaudible) after it was over with.

Nemeth
Q. All right. Do you know five's name?

[redacted]
A. No I don't.

Nemeth
Q. Okay. How about three. Do you know his name?

[redacted]
A. No.

Nemeth
Q. Do you remember what he was doing?

[redacted]
A. No.

Nemeth
Q. Did you see him arrive?

[redacted]
A. No.

Nemeth
Q. Did you see him there afterwards?

[redacted]
A. I saw him after--I'm almost certain I saw him after.

Nemeth
Q. Okay. Go ahead, go ahead and you can sign your name on those--on that one and you can--you don't have to write anything unless you feel you need to write something or take to task to what we're saying. Okay. Now we'll show you folder "E", as in Edward. See if you recognize anybody in that picture--those pictures.

[redacted]
A. No. Number two looks familiar, but I'm not sure.

Nemeth
Q. Number two looks familiar?

[redacted]
A. Yes. As if he was standing around in the crowd after it was over with.

Nemeth
Q. Okay. But you're not certain?

[redacted]
A. No I'm not for sure.

Nemeth
Q. Okay. Do you think he was there or--your not certain?

[redacted]
A. I'm not, I'm not certain--it just--he looks--

Nemeth
Q. Okay. You can circle him and say he looks like somebody that was there standing in the crowd afterwards. Do you know number two's name?

[redacted]
A. No.

Nemeth
Q. Okay. Did you--you say you did not see him arrive, is that?

[redacted]
A. Yeah.

Nemeth
Q. But you saw him standing around afterwards, you think?

[redacted]
A. Yeah.

Nemeth
Q. Okay. You can write, you think and if you're not certain or whatever you can write all that down too--that down--that's fine. Do you know who was inside the module at the time of the fight?

[redacted]
A. Sheriff's deputies or inmates?

Nemeth
Q. Deputy--insi--I mean inside the control thing?

[redacted]
A. No.

Nemeth
Q. Was Kluth the module officer that night?

[redacted]
A. Yes, he was.

Nemeth
Q. Okay. And then Kluth was outside of the--obviously when the,

he contacted the inmate? Right?

[redacted]

A. Okay. Here what--here's what happened, the guy--these guys (inaudible)--

Nemeth

Q. --Okay. Let me say this real quick. On folder "E" he wrote, circled number two, "he looked like someone that was there but I'm not sure." And he signed his name, okay. Then, you're saying what happened that night is?

[redacted]

A. The night the incident happened, Deputy Kluth gave--(inaudible) he give us the trustees--at the time I was a trustee, I'm not now. But he gave, he gave us, you know, like about an hour, hour and a half to use the phone. (Inaudible) we got to do when he comes on before he locks us down. Okay. This certain inmate has came out of his cell--the one that got involved with the deputies. And I don't know if he had a mental disability or whatever it was, but he came out of his cell and wouldn't go back in his cell. So, trustees, tried ta--we tried to talk him in his cell 'cause we're not allowed to put our hands on inmates, but he wouldn't go in. So Deputy Kluth calls someone--Deputy Kluth called his (inaudible). Deputy came in the booth...

Nemeth

Q. Do you know who that deputy is?

[redacted]

A. I can't remember.

Nemeth

Q. What did he look like?

[redacted]

A. He looked like--he was about--I'd say about, I can say about 5'6"--5'--'bout, 'bout 5'7", 5'8".

Nemeth

Q. White?

[redacted]

A. Yeah, he was a white deputy, stocky, kind of blondish hair.

Nemeth

Q. Blondish hair?

[redacted]
A. Yeah.

Nemeth
Q. Stocky.

[redacted]
A. Kind of like a box--like a army cut.

Nemeth
Q. Army cut. Does that mean flat on the top?

[redacted]
A. Yeah. Yeah.

Nemeth
Q. And anything else? Mustache?

[redacted]
A. He got a little mustache, but not a, not a big one.

Nemeth
Q. And glasses or no glasses?

[redacted]
A. No glasses.

Nemeth
Q. No glasses. Do you know where he normally works?

[redacted]
A. No I don't.

Nemeth
Q. Okay. Is that his normal shift or?

[redacted]
A. No.

Nemeth
Q. That's not his normal shift?

[redacted]
A. He came in to relieve Deputy Kluth for whatever reason.

Nemeth
Q. Yeah. That's not his normal position, but I mean does he normally work those hours? Or do you know?

[redacted]
A. I'm not for sure.

Nemeth
Q. Not sure. Okay. So, he came in--this, this blonde guy that's like 5'7" with a little bit of a mustache, flat top haircut--came in to relieve Deputy Kluth for the booth and, and that's when Kluth came out and brought the inmate up?

[redacted]
A. Yeah. He brought the inmate up to the front and then he came up--when inmate came up--

Nemeth
Q. --Okay. I read that part. Hang on a second, I don't want to cut you off but let me ask you these questions first. Did, did the uh, did the guy who came in to relieve Kluth--once the fight started between Kluth and the inmate--the inmate spun around on him and did all that--did the guy in the booth ever come out?

[redacted]
A. First he ran and used the phone.

Nemeth
Q. He decided to secure the area?

[redacted]
A. In the booth. Yeah.

Nemeth
Q. Okay. And then what?

[redacted]
A. After the inmate and Deputy Kluth was in the corner and a lot of deputies had arrived--as the other deputy was coming inside the modules he told the deputy, "Go ahead and get you some." The other deputy says, "I'll pass" or somethin'"--somebody said like, "Well, I don't want to get involved.

Nemeth
Q. Alright. I've heard you say this story. This is--your story today is very similar to what you told me last time. It's not identical. Have you seen a picture of the guy who relieved the

booth, that I've shown you so far or do you know?

[redacted]
A. No. I--I.

Nemeth
Q. Do you want to look at them again?

[redacted]
A. Yeah.

Nemeth
Q. Okay. We'll lock at them again in a second. Let me just show you folder letter "F" before we get too far off. Do you recognize anybody in folder "F"?

[redacted]
A. No. No one.

Nemeth
Q. You don't recognize anyone?

[redacted]
A. No one. No.

Nemeth
Q. Okay. You're certain, no one in "F"?

[redacted]
A. No.

Nemeth
Q. All righty. Now I will show you--I'm not going to show you "F" because you just said there's no one you recognize, but all the others you were able to pick somebody or multiple people out. Okay. Was there--now we are looking for the person that relieved the booth that Kluth came out. So we know this is Kluth, so it's not that one. You said he's blonde hair so we can eliminate all these. All right.

[redacted]
A. Yeah.

Nemeth
Q. Show Up folders "C" and "E" are the blonde deputies. I'm going to save some tape here. Okay. You've looked at photos for me--you haven't been able to figure out or at least you don't see

the person that may have been involved in the booth thing here. The guy who relieved Kluth. Now I was asking you about the person that he addressed and said, "Go ahead and get you some." Who does that person look like? He's a deputy, right?

[redacted]
A. Yeah.

Nemeth
Q. Was he white or something else?

[redacted]
A. He was white.

Nemeth
Q. Okay.

[redacted]
A. He was slender-type guy.

Nemeth
Q. Okay.

[redacted]
A. With a--

Nemeth
Q. Do you remember the color of his hair?

[redacted]
A. It was sort of a reddish-blonde or a brown.

Nemeth
Q. Okay. But did you see his picture amongst the reddish-blonde haired type brown type--

[redacted]
A. No.

Nemeth
Q. No?

[redacted]
A. No. A lot of mens pictures are not the picture--not a lot of guys that were there then.

Nemeth
Q. You mean a lot of the pictures here don't look like the people that were there?

[redacted]
A. No.

Nemeth
Q. But, but the ones you picked out were?

[redacted]
A. They were there. Because they are the guys for sure if I saw him again I would know him.

Nemeth
Q. What does he look like?

[redacted]
A. He's kind of short, stocky-like, kind of muscular, white, broad shoulders.

Nemeth
Q. Light guy?

[redacted]
A. Yeah. Light guy. Yeah, he was white. He would be--would he be white or--

Nemeth
Q. Okay. So this guy that was asked to go get himself--what did he look like again? You remember what color hair? You said brownish, reddish-brown, is that what you said?

[redacted]
A. The guy that told the other guy to go get some?

Nemeth
Q. You know the guy who was telling him, "go get some." Who first came in--did he say--(inaudible).

[redacted]
A. (inaudible) It was blonde about (inaudible) The reddish-blonde hair--

Nemeth
Q. Do you know his name?

[redacted]
A. No.

Nemeth
Q. No. And had you--

[redacted]
A. The deputies that were involved--I seen them all before--basically I seen 'em on the 9,000 floor.

Nemeth
Q. 9,000? Sure of that?

[redacted]
A. Yeah.

Nemeth
Q. How do you know?

[redacted]
A. That's where I saw them before. That's why I would recognize them again.

Nemeth
Q. Is that cause you're a trustee, you've been to 9,000.

[redacted]
A. Yes.

Nemeth
Q. (inaudible) working, that sort of thing?

[redacted]
A. Yeah. I've been there to get bedrolls, fish kits--or even on my--comin' in from different movements. Before I was a trustee.

Nemeth
Q. Have you seen any of these people since the incident?

[redacted]
A. Not that I can positively identify, but guards, but like I say, they came up to me a day, two days later and asked me what did I say to the detectives.

Nemeth
Q. Right. Did you see those two guys faces amongst these?

[redacted]
A. No.

Nemeth
Q. Okay. All right. What I'd like you to do for me is--I don't want you to extend yourself and get somebody in trouble, go roamin' around, but if you do see somebody that you're certain were there that night, try to glimpse their name tag without getting yourself into trouble and remember their name and then write it down as soon as you get a chance and call me with it, okay?

[redacted]
A. All right.

Nemeth
Q. I appreciate that. All right. That's all the pictures and everything that I have to show you. Is there anything you want to add besides what we've covered so far?

[redacted]
A. No. That's it.

Nemeth
Q. Okay. On the day of the incident--just to reiterate--you said you went back in the laundry room?

[redacted]
A. Yeah.

Nemeth
Q. Did--were you able to see any blows struck by anybody other than Kluth? You say Kluth was the Module Officer and you did see him punch the inmate in the face with his left fist while he had his flashlight in his right hand? Anything else?

[redacted]
A. The--the deputy that came off the booth, I saw him in a--

Nemeth
Q. --And that's the--

[redacted]
A. --The one who came off--

Nemeth
Q. Blonde-haired guy with the military haircut?

[redacted]
A. Yeah. I saw him deli, deliver a fist blow.

Nemeth
Q. Saw a hit or a fist blow?

[redacted]
A. Yeah.

Nemeth
Q. Do you know if that struck the inmate?

[redacted]
A. No, I don't.

Nemeth
Q. Was he one of the ones that visited you after I left?

[redacted]
A. (Inaudible) I think so.

Nemeth
Q. Okay. You need to try and get back that name for me, okay? If you can. Do you think you could match those pictures I showed you? Or your not sure?

[redacted]
A. Not for sure.

Nemeth
Q. Not for sure. Okay. Anything else you want to add at this point?

[redacted]
A. No.

Nemeth
Q. Okay. Mr. [redacted], thanks for your time. We'll end the interview at 2053 hours.

END OF INTERVIEW

I/M [redacted]
I.A.B. INTERVIEW 10-31-94

WITNESS INTERVIEW

CASE NUMBER IAB 008383

[redacted]

Nemeth:
Q. Alright, well we tape record everything we do so that there's no chance of us putting words in your mouth, okay? We wanna make sure that everything is recorded accurately that you say to us. That's why we tape record. Okay, today's date is Monday, October 31st, the time is 1610 hrs. Sergeant John Nemeth and Sergeant Tim Cornell here from Internal Affairs. We're at Central Jail interviewing inmate, is it [redacted]?

[redacted]:
A. Yeah.

Nemeth:
Q. [redacted]?

[redacted]:
A. [redacted].

Nemeth:
Q. [redacted], I mean, [redacted]. What's your booking number, [redacted]?

[redacted]:
A. [redacted]. (okay)

Nemeth:
Q. And what's your, do you have a middle name, [redacted]?

[redacted]:
A. [redacted].

Nemeth:
Q. [redacted], and your date of birth.

[redacted]:
A. [redacted]. (okay)

Nemeth:
Q. And your home address?

[redacted]:
A. Right now it's [redacted].

Nemeth:
Q. [redacted]?

[redacted]:
A. Yes.

Nemeth:
Q. Street?

[redacted]:
A. Yes.

Nemeth:
Q. [redacted]?

[redacted]:
A. Yes.

Nemeth:
Q. Zip Code?

[redacted]:
A. [redacted]. (okay)

Nemeth:
Q. Telephone number there.

[redacted]:
A. No telephone number there but a telephone number . . .

Nemeth:
Q. You got a message phone number or something?

[redacted]:
A. Yes, my wife's.

Nemeth:
Q. What's that?

[redacted]:
A. It's [redacted].

Nemeth:
Q. And what's your wife's name?

[redacted]:
A. [redacted]

Nemeth:
Q. [redacted], (yes) same last name?

[redacted]:
A. Yes. (okay)

Nemeth:
Q. Now, have you been in the sheriff's custody for some period of time?

[redacted]:
A. Yes, about five months.

Nemeth:
Q. Five months, okay. Now, were you a trustee assigned to Module 4400 on October 27th?

[redacted]:
A. Yes, I was. (okay)

Nemeth:
Q. At about, around about midnight or shortly thereafter did some, something happen in the module?

[redacted]:
A. Some kind of discrepancy toward a inmate, the deputy I saw, I don't know. (okay)

Nemeth:
Q. What were you doing at the time this occurred?

[redacted]:
A. On the pay phone.

Nemeth:
Q. You were on the pay phone in Module 4400?

[redacted]:
A. Yeah. (okay)

Cornell:
Q. And who were you talking to?

[redacted]
A. My wife.

Cornell:
Q. Calling your wife, okay.

Nemeth:
Q. And what, what caused you to believe there was a, some kind of disturbance happening?

[redacted]:
A. (inaudible) the deputy or the inmate squared off.

Nemeth:
Q. Squared off? And by that, can you describe what you mean, were they facing each other?

[redacted]:
A. Well, the deputy asked the inmate to get on the wall and the inmate spun off the wall.

Nemeth:
Q. Spun off the wall?

[redacted]:
A. Yeah.

Cornell:
Q. Did you see that?

[redacted]:
A. I didn't see him spin but I saw the deputy step back and then I saw a portion of the inmate's jump-suit from the corner of the wall. (okay)

Nemeth:
Q. What did you see the inmate due to the deputy?

[redacted]:
A. I didn't see, I didn't see none of that, after, after that incident, after I saw a portion of the inmate's jump-suit in his arm, portion of his arm I went, I went into the laundry room.

Nemeth:
Q. To the laundry room, which is inside Module 4400?

[redacted]:
A. Yes.

Nemeth:
Q. You just went right across the little entry way there, is that right?

[redacted]:
A. Yeah.

Nemeth:
Q. A, never exited the module at anytime?

[redacted]:
A. No, after.

Nemeth:
Q. After the entire incident was over?

[redacted]:
A. Yes. (okay)

Nemeth:
Q. I'll get there in a minute. So, you see the jump-suit, you see the deputy step back from where you saw him?

[redacted]:
A. Yeah.

Nemeth:
Q. Did, at anytime did you see the inmate strike the deputy?

[redacted]:
A. No, I didn't.

Nemeth:
Q. Did you see the deputy strike the inmate?

[redacted]:
A. No, I didn't.

Nemeth:
Q. Did you ever see them grab on to each other?

[redacted]:
A. From, nah, nah, that's all I saw was what I told you, I left the laundry room, I went from the pay phone to the laundry room. (okay)

Nemeth:
Q. Did you see the inmate (inaudible) and done with?

[redacted]:
A. No, I didn't. (okay)

Nemeth:
Q. And you did see the deputy grab the inmate?

[redacted]:
A. No, I didn't. (okay)

Nemeth:
Q. So you heard, you saw what you saw as you just described, you heard scuffling, did you hear any voices?

[redacted]:
A. I just heard the inmate hollering and I kept telling, hearing the deputy tell the inmate to get down.

Nemeth:
Q. Get down, okay. What was happening at that point?

[redacted]:
A. I don't know, I was in the laundry room.

Nemeth:
Q. You were in the laundry room, alright, what did you hear next?

[redacted]:
A. That's it, I just heard, just kept hearing the inmate and the deputy converse in a combative tone, that's it.

Cornell:
Q. What were they saying?

[redacted]:
A. Just, the deputy was telling the inmate to get down and the inmate was, kept hollering and saying something about that, I could not, I couldn't put it together.

Nemeth:
Q. Okay, and some other deputies arrived at some point?

[redacted]:
A. Yes, Sir.

Nemeth:
Q. How many?

[redacted]:
A. (inaudible), couldn't tell you how many right then and there but at one point, after the incident had calm down, deputy came and told me to leave the laundry room and go up to the dayroom. At that time He told me to keep my eyes facing left, which means staring at the wall as I walked out the laundry room and went to the dayroom. (okay)

Nemeth:
Q. Did you do that?

[redacted]:
A. Yes, I did.

Nemeth:
Q. What deputy told you to do that?

[redacted]:
A. I don't know what his name was.

Nemeth:
Q. You know what he looks like?

[redacted]:
A. Couldn't remember right now, right off hand.

Nemeth:
Q. Was he White?

[redacted]:
A. Yeah, he was White.

Nemeth:
Q. And was he tall or short or medium?

[redacted]:
A. Shorter than me.

Nemeth:
Q. Shorter than you, and how tall are you?

[redacted]:
A. 6'1". (okay)

Nemeth:
Q. And was he . . .

[redacted]:
A. Skinny like.

Nemeth:
Q. Skinny built?

[redacted]:
A. Yeah, I can't remember facial.

Nemeth:
Q. And mustache or anything off the face?

[redacted]:
A. I didn't really get a chance to look at him in his face.

Nemeth:
Q. Did you look at his name tag on the shirt?

[redacted]:
A. No, I didn't. (okay)

Nemeth:
Q. Have, had you seen him before?

[redacted]:
A. No, I . . .

Nemeth:
Q. No. Okay so, where was the inmate, the Black inmate that had been involved in the fight, at that time?

[redacted]:
A. I guess by, just by my judgement, they were telling me to keep looking to the left, they had him over in the corner.

Nemeth:
Q. Did you see him there though, when probably told you to turn your eyes left?

[redacted]:
A. I couldn't get a chance to look.

Nemeth:
Q. So you're just approximating based on what you heard and where everybody was that you're guessing the inmate was to, to your right then, as you were walking up (yeah), is that right?

[redacted]:
A. Yeah.

Nemeth:
Q. And where would that place the inmate in relationship to the module layout?

[redacted]:
A. In front of the Baker and Denver gates. (okay)

Nemeth:
Q. Is that anywhere near a shower or Baker Row shower?

[redacted]:
A. Yes.

Nemeth:
Q. Where, where would he be in relation to the Baker Row shower?

[redacted]:
A. He would be on the floor at the top of the Baker Row showers 'cause Baker Row goes down.

Nemeth:
Q. Right, okay, and was there somebody in the Baker Row shower, to your knowledge?

[redacted]:
A. Not that I know of, I, I, I don't think so.

Nemeth:
Q. You're not sure?

[redacted]:
A. I'm not sure. (okay)

Nemeth:
Q. And do you know the deputy's name who was involved in this scuffle with the inmate?

[redacted]:
A. It was the night watchman, Kluth I think.

Nemeth:
Q. Kluth, Deputy Kluth, (yeah) he's the regular night guy that works in there?

[redacted]:
A. Yeah.

Nemeth:
Q. When Deputy Kluth stepped out of the officer control booth to coufront this Black inmate, had another deputy come in and gone into the booth?

[redacted]:
A. Yes.

Nemeth:
Q. Who was that?

[redacted]:
A. I don't know who he was.

Nemeth:
Q. What does he look like?

[redacted]:
A. Kind of muscular, probably about 5'7", 5'9", about 210 lbs.

Cornell:
Q. White, Black, Hispanic?

[redacted]:
A. White.

Nemeth:
Q. Hair?

[redacted]:
A. White.

Nemeth:
Q. Pardon me?

[redacted]:
A. I'm not for sure if he was either, either had blondish brown, blondish hair, about his color. (okay)

Nemeth:
Q. Like my partner's color, (yeah) it's like a blond color?

[redacted]:
A. Yeah. (okay)

Nemeth:
Q. How did he wear his hair, do you know? Did you pay attention?

[redacted]:
A. Combed straight back.

Nemeth:
Q. Combed straight back. Did it stick up a little bit on the top? Was it short combed straight back, or was it long combed straight back?

[redacted]:
A. It was short.

Nemeth:
Q. Short combed straight back, almost like a flat top looking, or?

[redacted]:
A. Yeah.

Nemeth:
Q. Kind of like that?

[redacted]:
A. Yeah. (okay)

Nemeth:
Q. And what, what during the, how many deputies did you say showed up during the scuffle?

[redacted]:
A. I couldn't tell, like I said, I was in the module, facing the wall.

Nemeth:
Q. Facing away, so.

[redacted]:
A. Yeah, but I heard, I heard quite a few footsteps though. (okay)

Nemeth:
Q. And when you walked up, when the deputy told you to come out of the laundry room and go up to the, did you say the C Row dayroom?

[redacted]:
A. Yes. (okay)

Nemeth:
Q. And told you to look left.

[redacted]:
A. Yeah.

Nemeth:
Q. Did you get a chance to see how many deputies were in there at that time?

[redacted]:
A. Just like by peripheral vision you could see it was like a, like a little lash crowd right there. (okay)

Nemeth:
Q. How many would you estimate to be there, if you can? Four?

[redacted]:
A. Well roughly, nah, it'll be more, probably about ten.

Nemeth:
Q. About ten. And then what happened after you went into the dayroom?

[redacted]:
A. That was it, I stayed up there until the whole incident was over and then nurse came down with the gurney, put the guy on the gurney. (okay)

Nemeth:
Q. Did you ever hear, during the scuffle portion, did you ever hear the Black inmate say, "I give up," or "That's it," or "I surrender," or anything like to that effect?

[redacted]:
A. If I'm not exaggerating, I think I did hear him say, "Okay, okay, okay, okay!" He just kept saying "Okay, okay, I'm down! Okay, I'm down!"

Nemeth:
Q. And then what? Was there, did you still hear a scuffling?

[redacted]:
A. I still heard commotion, yeah.

Nemeth:
Q. Did you ever hear handcuffs applied, the click, click, click, click ratcheting sound of handcuffs?

[redacted]:
A. No, I never heard the ratchet of any, nah, nah, no.

Nemeth:
Q. You never heard that?

[redacted]:
A. No.

Nemeth:
Q. Did you ever hear the inmate say, I'm handcuffed or, anything like that?

[redacted]:
A. No.

Nemeth:
Q. Never heard that. When you walked by the inmate, do you know, was he handcuffed?

[redacted]:
A. I couldn't tell, like I say, my eyes were facing the wall.

Nemeth:
Q. Okay but, you don't know if he was handcuffed?

[redacted]:
A. No.

Nemeth:
Q. Or if his legs were tied up behind him? Did you ever, at some point, see that he was in that condition?

[redacted]:
A. No.

Nemeth:
Q. No, okay. (inaudible)

Cornell:
Q. Did you hang the phone?

[redacted]:
A. Well I was in the laundry room and I been in module for so long, my wife had been on the phone and I know she, she kind of got kind of nervous 'cause when it first happened I told her, I said, said, "Somebody's fussing," I said, "A inmate and deputy is going at it," I said, "Let me call you," I said, "Hold on for a moment." I thought, I expected it to be for about, you know, about a minute or so, like that, and it went on for so long, when I went to turn around the deputy told me to get back and face the wall, and I said, "Well, can you tell my wife I'll call her back later," he picked up the phone and said, "This is the Los Angeles Sheriff's Department," and said, "Well your husband will call you later," and he hung up the phone.

Cornell:
Q. So, let me ask you this, if she was on the phone, the phone was *hanging* there?

[redacted]:
A. Yeah.

Cornell:
Q. She heard part of this?

[redacted]:
A. Evidently, I guess she did.

Cornell:
Q. Have you talked to her since?

[redacted]:
A. I talked to her but regarding that incident it was like she felt kind of ashamed, or she felt pity for the guy, whoever the guy was, she said, "All that time," she said, "All that noise I heard, all that time," I was like "Yes," she was like, she was like, "Man, that's a long time."

Cornell:
Q. Well, let me ask you this, would you be upset if we went over and called your wife and talked to her on the phone?

[redacted]:
A. Yes, I will 'cause it would cost me up. Man, in here, these deputies are something else, man, and you, man, you know, this incident, you guys are not, this is not the first inciment, incident that you are investing. Something happen to a deputy behind an investigation here, man, I'm not the shit list, man.

Cornell:
Q. Well we've talked to a *whole* bunch of people, a *whole* bunch of people.

Nemeth:
Q. Whole bunch, you ain't the first one.

Cornell:
Q. You're not the first one and you're not the only one and you *will not* be the last one, I guarantee it.

Nemeth:
Q. Number one, *number two*, we, these people, we began talking to them last week, okay? None of them are, are in danger, none of them have been harmed, none of them have been harmed, none of them have been punished in anyway, but what I do is, to insure and to make your mind at ease, I give everybody we talk to a copy of my business card, one of my business cards with the instructions that if you feel you *are* being intimidated or harassed as a result of talking to us, or anybody even *asks* you, "Were you talked to?" or "What did you say to the investigators?" I want you to call me, okay? And if you can't get a hold of me, I want you to tell a sergeant, a senior, or a Watch Commander here at the jail, okay? There's a, there's no way in the world these people have power over you that, that's going to influence you more than us, okay? And they know that this is being looked at now and it'd be just *too* coincidental if somebody was in trust to you, was present during that time, have something happen, I mean, there's just too many different people. We've talked to a lot of people that were there that night and, and others, okay? You don't wanna worry about that but what I, like I cautioned you before we went on tape I, this is very serious to the Sheriff's Department. You mentioned, yeah, that this isn't the first time that happened. Well, I'll tell you what, this is the first investigation *I'm* conducting about this type of thing in this particular location and the Sheriff's Department is *very, very* concerned about these type incidences, okay? Somebody is getting force used on them and it didn't need to be used, we wanna know about it. By the same token, if force was used and needed to be used, then we want to make sure that *that's* documented accurately, too, okay? I want you to not hold anything back when you're talking to us and I don't want you to *add* anything to what you saw or heard when you're talking to us, but it's *very* important. Just like you said your wife felt extremely disturbed about the length of time, I wanna get everything that you know *out* so we can lay it out on the table and, and operate from there, okay, with me so far?

[redacted]:
A. I mean, I understand what you're saying but see I know what happened, man, see, I talk to you guys and, and then the bullshit comes in, man, I get shifted around from here to here, I get transported all day and night, back and forth from here to Wayside (well) and from here to (inaudible).

Nemeth:
Q. Here's my business card, I, like I say, I, I'm not, I'm not gilding the lily with you, we were down here last week talking to people and that hasn't happened to anybody, yet, and if it does happen to somebody for no good apparent reason then we'll find out about it, everybody in here, there's several people running around here with my cards right now, okay? And I don't hand those things out like candy, there's a, that's there for a reasoning and I want you to feel secure, I'm telling you, but I want to know everything that you know. It's important that you tell us, we can never fix the problem unless we get help from people, okay? And it's people that, like you who are there, that know what happened that are gonna give us the help. Is, tell me what, what actually happened, tell me what you saw?

[redacted]:
A. To be honest with you, man, I didn't see anything like I tell you, I didn't see nothing because I left the area where the incident was, but I heard everything, man, you know, I got very good hearing.

Nemeth:
Q. Well, let's hear it. What did you hear?

[redacted]:
A. They beat the dog shit out the dude, man, for, I mean, for no apparent reason, I mean, whatever he did, he didn't deserve to be beat like he did, man.

Cornell:
Q. Well, how do you know they beat the dog shit out of him? What do you . . .

[redacted]**:**
A. 'Cause after the incident was over, man, there was pools, there was pools of blood there, man.

Nemeth:
Q. Okay, tell, well you said you have excellent hearing and you *heard* everything, you didn't see anything, is that right?

[redacted]**:**
A. Yes. (okay)

Nemeth:
Q. Tell me, what you heard, from the beginning, that leads you to believe they beat the dog shit out of this guy? That's what, that's what I need to hear.

[redacted]**:**
A. Because as certain deputies was running in, certain deputies was telling other deputies, "Go ahead and get you some, go ahead and get yours then."

Cornell:
Q. You heard 'em say that?

[redacted]**:**
A. I heard this.

Nemeth:
Q. Could you recognize the voice that was saying this?

[redacted]**:**
A. Well I know for a fact that the deputy that relieved Kluth out of the booth, the one that went in the booth when Kluth came out, he had the door ajar, when the other deputy was coming in, he was telling one deputy, "Go ahead and get yours," and one deputy says, "Nah, I'll bow, I'll pass on this one," he says, "Well, come in and cover the booth, I'll get mine." He came out the booth and did what he had to do and went back in after all, it was over with.

Nemeth:
Q. Kluth.

[redacted]**:**
A. No, Kluth was already doing (he) it with the dep–, he was involved in it . . .

Nemeth:
Q. He was involved in it from the beginning, right?

[redacted]**:**
A. From beginning.

Cornell:
Q. And the guy that that remained?

[redacted]:
A. But the, whoever the guy who relieved Kluth when all them came.

Nemeth:
Q. And this is the guy you described to us as being muscular with blondish hair.

[redacted]:
A. With blondish hair, yeah, like short.

Nemeth:
Q. Short (yeah) flat top type of hair?

[redacted]:
A. Yeah.

Nemeth:
Q. What did he do now, he what?

[redacted]:
A. He told, he had the door kind of propped with his foot and he was telling another deputy . . .

Nemeth:
Q. The booth control officer, (yeah) module control booth door.

[redacted]:
A. Yeah, (uh-huh) he had it kind of propped and he was telling another officer that came in, "Go ahead and get yours," then whoever this other officer was and I don't recognize his name or nothing, he said, "That's okay, I'll pass on this one," he says, "Well, come in and cover the booth while I get mine."

Nemeth:
Q. And then what happened?

[redacted]:
A. He came out the booth, went and put his little two cents in and whatever he had to do.

Nemeth:
Q. Did you see any of that? I want you to tell me the truth.

[redacted]:
A. No, what I, I didn't, I didn't see none of it, but I heard.

Cornell:
Q. And what did you hear when you came out, okay, what did you hear when you came out?

[redacted]:
A. I heard a lot of scuffling as in like shoes on the floor, like, scuffle the shoe marks on the floor like this, (sound of shoes squeeking on floor), uh-huh, I heard keys.

Nemeth:
Q. What did you think that was? What did you think those scuff marks were?

[redacted]:
A. What was doing was kicking, he was kicking him, man.

Nemeth:
Q. He was kicking him?

[redacted]:
A. Yeah.

Nemeth:
Q. And you believe that from hearing those scuff marks?

[redacted]:
A. Yeah, I, I been, I been doing this for fifteen years, man.

Cornell:
Q. Was the inmate doing anything when you thought he was being kicked?

[redacted]:
A. No, 'cause the inmate at, at, at a certain point, after a certain amount of time had gone by, the inmate kept hollering, "Alright, I give up! Alright, I give up! I'm down, I'm down, I'm down!" But more officers kept pouring in and pouring in and pouring in and every time any officer would come in, you could hear his keys, the whichever, if it wasn't his keys, it was someone else's keys, keys were rattling, you could hear the rubber marks on the floor, you could hear the thumps as if someone was hitting a punching bag or something. (okay)

Cornell:
Q. And you, and you, by hearing this, you thought they were putting the boots to him?

[redacted]:
A. Yeah.

Nemeth:
Q. Did you ever hear the inmate say, "I'm handcuffed, that's it," or anything like that, "I give up!" Other than you said, "I'm down, I'm down, I'm down!" Any, anything else along those lines?

[redacted]:
A. I kept just, I kept hearing him say, "I, I give up!"

Nemeth:
Q. Did you hear him say something like, "You're killing me!" Or anything like that, did you ever hear a comment like that?

[redacted]:
A. No, I didn't, I didn't hear nothing like that. (okay)

Nemeth:
Q. Did you, when you walked out, remember how you were telling us how you walked out and the guy told you to have your eyes left, (no) did you at anytime get a glimpse of the guy on the ground with the inmate?

[redacted]:
A. I kind of, you know, like I say, peripheral vision, (right) you know what I'm saying.

Nemeth:
Q. And how, how was the, what was his condition then? How was he seated or sitting or laying or whatever?

[redacted]:
A. I'm not sure if he was handcuffed or not but I know he was faced down.

Nemeth:
Q. Faced down?

[redacted]:
A. Yeah, and you could see blood pouring like a water fountain right there, man. (uh-huh)

Nemeth:
Q. And . . .

[redacted]:
A. I went on up to the Charley dayroom then.

Nemeth:
Q. And that was it.

[redacted]:
A. Yeah.

Cornell:
Q. Did, was your wife listening to all these remarks and stuff?

[redacted]:
A. She heard the whole, time, she heard the whole incident. (uh-huh) I don't know if she heard any of the comments, (uh-huh) but I know she heard all the commotion and the scuffling, (okay) 'cause she said she thought for a minute that they was jumping on me, for being on the phone so late. (right)

Cornell:
Q. So she was concerned with your safety (yeah) at the time and then when you called her back, did you tell her what happened?

[redacted]:
A. I told her, I just said, "You know," I said, "that deputy just beat the shit out this dude, man."

Nemeth:
Q. Did, did the number you just gave us, is that good for your wife to reach her?

[redacted]:
A. Yes, it is. (okay)

Nemeth:
Q. How long, you're talking about the time period, how long did, did it last from the point you left the phone and went in 'til the first deputy showed up?

[redacted]:
A. About fifteen, twenty minutes.

Nemeth:
Q. It was fifteen or twenty minutes those guys were struggling by themselves, just the one?

[redacted]:
A. Yeah.

Nemeth:
Q. Really, okay . . .

[redacted]:
A. Let's say between, anywhere between ten and fifteen minutes. (okay)

Nemeth:
Q. So the judge, it seemed like a good time.

Cornell:
Q. They were one on one for fifteen or twenty minutes?

[redacted]:
A. No. (okay)

Nemeth:
Q. That's, that's what I'm asking you at first.

[redacted]:
A. (inaudible) the deputy and the inmate went at it for about . . .

Nemeth:
Q. By themselves is what I'm talking about, before any help got there.

[redacted]:
A. About two or three minutes.

Cornell:
Q. Okay, and then the whole incident lasted how long?

[redacted]:
A. Anywhere from ten to fifteen minutes.

Cornell:
Q. Before they got the guy out of the (yeah) module and.

[redacted]:
A. The whole, whole, everything I could say it, it, it maybe lasted for about twenty minutes, the whole thing, (alright) when they took him out and everything.

Nemeth:
Q. Okay, let me ask you this, when you walked up to the C Row dayroom, did you hear anymore scuffling after that, or was the scuffling part over with?

[redacted]:
A. The scuffling part was over with.

Nemeth:
Q. Okay now, from the time that you first heard the help deputies, deputies come in to help him, 'til the time the scuffle was over with, how much time do you estimate that to be?

[redacted]:
A. Well, I saw the trustee that was there . . . now, say, what you say again?

Nemeth:
Q. See you read things, you're not suppose to be reading that, that's what causes you to forget (inaudible).

Cornell:
Q. We've also talked to a lot of people, you're not the first one.

[redacted]:
A. I don't wanna be caught up in no riffraff.

Nemeth:
Q. You're not even cooperating.

Cornell:
Q. And there's no reason you shouldn't be 'cause we're interviewing everybody on this thing.

Nemeth:
Q. Alright, we gotta go finish 'cause this is my last tape and we're almost out of tape. What time estimate do you have from the time this thing, the first guys got there, 'til the time the, the scuffle was over with, how much time do you estimate that to be?

[redacted]:
A. About seven or eight minutes.

Nemeth:
Q. Seven or eight minutes, okay. When you first saw the scuffling, did you, did you see the inmate ever strike at the deputy, swing at him, punch at him?

[redacted]:
A. Like I said, when it first started I saw, 'cause (inaudible) (yeah, I just) has been saying I was on the phone (right) and about maybe eight to ten feet was by the corner where the deputy had the inmate is, (uh-huh) I saw him, I saw the deputy take his hand like push the inmate toward the wall, I seen the inmate spin off the wall, I saw the deputy grab the inmate by the shirt, sling the inmate around by the control booth, then yet, then by that time I'm facing right here and they're both in my direct view. At that time, that's when I got up and went into the laundry room and everything rolled behind outside. (okay)

Nemeth:
Q. Did you see the deputy and inmate fall to the ground?

[redacted]:
A. No.

Nemeth:
Q. No? Never did?

[redacted]:
A. Uh-uh. (okay)

Nemeth:
Q. It's all I have.

Cornell:
Q. Anything else, [redacted]?

Nemeth:
Q. [redacted], now is your chance to add something, I mean, we may have to come back and re-interview you again, if something else comes up, so it would help us if something, you know, that you know that we haven't asked you hasn't come up, just give it now 'cause we'll, we may have to come find you again.

[redacted]:
A. That's all I saw, other than that it was all over so they called the trustees and me and another inmate dep–, Inmate [redacted] (uh-huh) came down, well [redacted] took the (inaudible) and put him out to the left all of which (uh-huh) was blood and then, chunks of blood he cleaned that up and that was it.

Cornell:
Q. You didn't clean up any blood?

[redacted]:
A. No.

Nemeth:
Q. What did [redacted] do?

[redacted]:
A. [redacted]?

Nemeth:
Q. [redacted], that big White trustee.

[redacted]:
A. He was down on the Row somewhere, he was on another row. (uh-huh, okay)

Nemeth:
Q. Are you a trustee now?

[redacted]:
A. No, I'm not.

Nemeth:
Q. Why not?

[redacted]:
A. Lost my job, I don't know. Shop passed up to an A board of lock down.

Nemeth:
Q. Oh, did you?

[redacted]
A. No.

Nemeth:
Q. No.

Cornell:
Q. You still live on Denver Row?

[redacted]
A. Yeah, I'm on Denver Row now, I used to be on Charley Row, (okay) Able Row. (alright)

Nemeth:
Q. Okay, alright, we'll end the tape at 1635.

MRS. [redacted]
I.A.B. INTERVIEW 11-17-94

WITNESS INTERVIEW

CASE NUMBER IAB 008383

[redacted]

Nemeth
Q. We're going to start the interview. Today's date is November 17, 1994. Time is 1640 hours. I'm Sergeant John Nemeth of the Sheriff's Internal Affairs. Accompanied by Sergeant Tim Youngern, Sheriff of Internal Affairs.

Cornell
Q. I'm Sergeant Tim Cornell.

Nemeth
Q. Did I say Youngern? I meant Cornell. It's what I meant to say. She knows who you really are. Okay. We're present at the home of Mrs. [redacted]. [redacted]. And the address here is [redacted]...

[redacted]
A. --[redacted]--[redacted]--

Nemeth
Q. --[redacted]?

[redacted]
A. Yes.

Nemeth
Q. In [redacted]--

[redacted]
A. --[redacted]--

Nemeth
Q. --[redacted]. And your phone number here is what, [redacted]--what--[redacted]--I had it written down here somewhere.

Cornell
Q. Why don't you just ask her?

Nemeth
Q. --[redacted]--

[redacted]
A. --[redacted].

Nemeth

Q. Okay. Very good. And what is your birth date, [redacted]?

[redacted]
A. Area code--I'm sorry. [redacted].

Nemeth
Q. Okay. And as we told you before we went on the tape recorder, that we were here to conduct an investigation into an incident that happened in Men's Central Jail on October 27, 1994. Did, did you have occasion to be talking to your husband, [redacted] who was in jail at--on that date?

[redacted]
A. Yes.

Nemeth
Q. Okay. Do you remember about what time it was when this happened?

[redacted]
A. Oh. I'm not really sure.

Nemeth
Q. Not sure. Was it day time or night time? Do you remember?

[redacted]
A. It was in the evening.

Nemeth
Q. Evening. Okay. And were you on a--

[redacted]
A. --It was nighttime, it was night.--

Nemeth
Q. --It was night. Later at night as opposed to earlier in the evening?

[redacted]
A. Yes.

Nemeth
Q. Were you on the phone with also your mother-in-law, was she also in the conversation?

[redacted]
A. Yes.

Nemeth
Q. It was a three-way phone call?

[redacted]
A. Yes.

Nemeth
Q. And that was between you, your mother-in-law who is [redacted]--

[redacted]
A. --[redacted]--

Nemeth
Q. --[redacted] and [redacted].--

[redacted]
A. --[redacted].--

Nemeth
Q. --who was at jail?

[redacted]
A. Yes.

Nemeth
Q. Do you know what module he's in off-hand?

[redacted]
A. Not, not off-hand.

Nemeth
Q. Or his cell number or anything like that?

[redacted]
A. No.

Nemeth
Q. No. Okay. So why don't you go ahead and tell me what happened after--during that phone conversation.

[redacted]
A. Well, I was talking to him and then he just, he said, "There's about 30 police is comin' in here." He said, "They started dragging this man and they just," he told me they was just beatin' him with these sticks and blood was just shooting everywhere. He said they just beat this man to death. I heard the man hollerin' in the background. I said, "What are they doin' to him? They killin' him?" I said, "What did he do?" And they beat him, they just kept on beatin' him and you could hear them slammin' him. They just, they were (inaudible) poor man, he was goin' through hell.

Nemeth

Q. Could you hear what he was saying?

[redacted]
A. Yeah. He was sayin',' "please let me," he said, "please stop, please stop!" You know, he kept on sayin',' "please stop" and they, they was saying, "mother fucker this and mother fucker that." You could hear them hittin' him. You could hear them hittin' him. And I said, "Baby just turn your head, just turn your head, just act like you didn't see that," you know.

Nemeth
Q. Was he still on the phone when this was--

[redacted]
A. --Yes--

Nemeth
Q. --happening?

[redacted]
A. Yes. And the officer came, the officer came and they took him off the phone and I guess they had them all up against the walls or whatever, I don't know. Anyways, the police came to the phone and said, "Excuse me, was you just talkin' to your husband?" I said, "yes." Well, he gonna call you right back.

Nemeth
Q. The deputy said that?

[redacted]
A. Yes.

Nemeth
Q. To you?

[redacted]
A. Yeah, but the phone was off the hook for at least a good ten minutes.

Nemeth
Q. Well, well what's the--to get an idea of continuity here--let's start off and try to inject at what point, you know, [redacted] left the phone and at what--how much later when it hung up. So you're on the phone with him, I'm trying to reiterate what you told me. You're on the phone with him and the next thing you know he says, "hey," all of a sudden, "There's a lot of policeman coming in here?"

[redacted]
A. Yes.

Nemeth
Q. Okay. And he's still on the phone with you at that point?

[redacted]
A. Yes.

Nemeth
Q. And then did you hear sa--something at that point that made you think there was a fight or whatever?

[redacted]
A. I heard like a slam. Like somebody was just slammin' up against a wall. Just beatin' him. And I heard this man, a man's voice, pleading for his life. You know, sayin',' "please stop."

Nemeth
Q. Please stop?

[redacted]
A. Please stop.

Nemeth
Q. Do you remember any other things that were said besides please stop?

[redacted]
A. This call, no. (Inaudible.) That's basically what he said.

Nemeth
Q. Well, before you said it--you said anything was it going to incriminate the guy? What did you mean by that? You--we need you to tell us everything that you heard because--

[redacted]
A. --Because you--

Nemeth
Q. --because we need to get the whole side.

[redacted]
A. Because when you tell on the police, the police know that [redacted] was tellin' me, I told him not to tell 'em, you know, tell that you saw that because he knows it and I know it and you all know it, the police is gonna whoop his ass. You know, they might not come after me. The police is just--

Nemeth
Q. --(inaudible)

[redacted]
A. --(inaudible) They the mafia.

Nemeth
Q. (Laughing) Are you holding anything back right now then because of that fear or are you telling us everything you know?

[redacted]
A. I'm telling you basically what I need--I think I should say.

Nemeth
Q. Well, tell us everything you know [redacted]. We're--what we're tryin' to do--let me tell you something. If the deputies did something wrong, okay. We're here to com--we're here to do a--

[redacted]
A. --They beat that--I, I know this much--they beat that man.

Nemeth
Q. But you weren't there. All you know is what you heard.

[redacted]
A. I heard it. I heard it. (inaudible)

Nemeth
Q. And that's why we're tryin' to find out if you remember what people said, 'cause we can't do a thorough investigation if people hold back on us. If you know stuff that you're not telling us, whether it's good or bad for either the deputies or the inmate, we can't do a thorough investigation and do our job if you don't tell us everything. And if the deputies did something wrong, then it's up to their chief and up to the sheriff to go ahead and discipline them for it. If they didn't...

[redacted]
A. They did somethin' wrong.

Nemeth
Q. Okay. Then you need to tell us everything you know. That's why wa--that's why we're here. 'Cause if we weren't doing a thorough investigation we would never even know you were on the phone, would we?

[redacted]
A. No. (Laughs)

Nemeth
Q. Okay. And not only that...

[redacted]
A. --(inaudible)--

Nemeth

Q. --if we weren't keeping our word in that nothing bad is going to happen to [redacted], I mean this has been almost a month since this happened.

[redacted]
A. Yes.

Nemeth
Q. And nothings happened to him. And he has my card, my business card--

[redacted]
A. --(Inaudible) must I know that he know anything--

Nemeth
Q. --That's right. You keep it secret and not only that, if in some kind of way--something happened, not only do we keep it secret, but I gave him my card to ensure his safety. And he's got my card--

[redacted]
A. --(inaudible)--

Nemeth
Q. --And now you have our card. Okay. And so, and so for that reason there's nothing gonna happen. Okay. And like my partner says, if we weren't interested in really getting to the truth, would we be here talking to you? We're interested in getting to the truth. Because we want to know the truth because the Sheriff's Department does not want people working, carrying a badge, working in the jails that are--that do bad things to people for no reason. You know what I'm saying? And if that's what--if that's involved in this case, we want to know about it, we want to get to the truth of the matter. So I need you to tell me everything that you know, okay? Don't hold back anything and don't tell us just what you think we need to know.

[redacted]
A. No. Basically this--I know that this man was beaten.

Nemeth
Q. Okay. What did you--you said that you hear sticks hitting him or something? Could you describe that or are you certain of that?

[redacted]
A. I--I asked [redacted], I said, "Damn, what are they hittin' him with?" He said, "they billy clubs."

Nemeth
Q. He's still on the phone?

[redacted]
A. Yes.

Nemeth
Q. At that point?

[redacted]
A. At that point, he's still on the phone.

Nemeth
Q. Okay. So Earl said, "They're hitting him with billy clubs?"

[redacted]
A. And he said, "blood's flying everywhere [redacted]." And the next thing I know, they took him off the--they--they were beatin' the man for about ten minutes.

Nemeth
Q. That's how long you and [redacted] were talking at that point?

[redacted]
A. Yes. Yes. They took him off the phone. But they told him to call--I guess he went to where they was at--but the phone was still off the hook.

Nemeth
Q. Would you say--excuse me--was this a collect call that he made to you?

[redacted]
A. Yes, it was.

Nemeth
Q. Did you get your phone bill yet for this call?

[redacted]
A. No. No.

Nemeth
Q. Okay. When you get your phone bill, I'd like you to, to call me at the card--that number on that card and I'll give you my business card as well, okay. All I, all I want to do is take a photocopy of it, okay. To show the times that it happened and how long you were on the phone. Okay?

[redacted]
A. Okay.

Nemeth
Q. Will you do that for me?

[redacted]
A. Yeah. Then he called right back like about 30 minutes later.

Nemeth
Q. [redacted] did.

[redacted]
A. Yes. The police turned the phone back on.

Cornell
Q. To tell you he was all right and everything with him?

[redacted]
A. Yeah. Yes.

Cornell
Q. Because you were concerned about him, right?

[redacted]
A. Yes. Yes. Well then they made him--they made the inmates clean the blood up and stuff.

Nemeth
Q. Right.

[redacted]
A. Yeah.

Nemeth
Q. Did he say that he cleaned up some of the blood or?

[redacted]
A. No. No. No. No. They made these other guys clean it up.

Nemeth
Q. And what about statements--you said you heard everybody curse and everything else. Did you hear the inmate saying anything other than pleading for his life?

[redacted]
A. (inaudible) I (inaudible) you know, he was pleading for his life and they was calling him mother fucker this and that--

Nemeth
Q. --Yeah, what did you hear them say?

[redacted]
A. They was calling him all kinds of bad--they said, "Bastard, when I say come here I mean come here and..."

Nemeth
Q. You heard somebody say that?

[redacted]
A. Yeah. Yes.

Nemeth
Q. "When I say come here, I mean come here..."

[redacted]
A. "Come here, you bastard..."

Nemeth
Q. You heard that comment?

[redacted]
A. "stupid bastard." That's what he said.

Nemeth
Q. Anything else?

[redacted]
A. And they was calling him, "son of a bitches" and they was just calling him all out his name, you know.

Nemeth
Q. Did he ever comment that you can remember picking up or was it just name calling? Like the one you said, "when I say come here, come here." Anything else like that?

[redacted]
A. That's [redacted] now. (Laughs)

Nemeth
Q. Oh, that's [redacted] now? ([redacted] had called on the phone)

[redacted]
A. Yes.

Nemeth
Q. Oh, really. Well let's take a break in the tape at 1649 hours. Okay. We're back on tape after a short break from a phone call. Time is 1656 hours--54 rather. [redacted], you told me that you heard a comment made by the inmate, what was it again? "Don't hit me anymore or something like that."

(INFANT IS WHINING IN THE BACKGROUND)

[redacted]
A. "Please don't hit me no more, please don't hit me no more."

Nemeth
Q. Okay. And did you, did you hear any other people, any other voices in the background?

[redacted]
A. I heard somebody else say they would kill him. "The son of a bitch, mother fucker when I tell you to come here, I mean come here." I heard somebody say that, that they would kill him. And he just kept on sayin', he just kept sayin', he was pleadin' for his life, he was pleadin' for his life.

Nemeth
Q. Okay. And now how long do you believe the entire--he scuffle part of the--

[redacted]
A. I would say about 20 minutes.

Nemeth
Q. 20 minutes?

[redacted]
A. Yes.

Nemeth
Q. Earlier you said ten minutes. I--

[redacted]
A. It was ten minutes why I was on the phone with [redacted] and then when the phone laid down, it laid down for a least ten more minutes.

Nemeth
Q. Another ten more minutes.

[redacted]
A. Yes. And then the officer came in--the deputy came and hung the phone up. He said he would call me back.

Nemeth
Q. He told you that he'd call back?

Cornell
Q. From the time that [redacted] told you there's about 30 deputies coming, then it was about ten minutes until the deputy came over and said--

[redacted]
A. Yeah.

Cornell
Q. You know--

[redacted]
A. --Yeah--

Cornell
Q. --that he would call you back.--

[redacted]
A. --I was on the phone with him for ten minutes and then the phone laid down.

Nemeth
Q. Right.

Cornell
Q. Did he say, "I have to go," or something when they?

[redacted]
A. He said I have to go.

Nemeth
Q. That's (inaudible)

[redacted]
A. "Hold on," he said, "hold on, [redacted]."

Nemeth
Q. Hold on?

[redacted]
A. Yeah. He went on and it still stayed off the hook for about ten minutes.

Cornell
Q. And there was about ten minutes--

[redacted]
A. --(inaudible) they're beating him.--

Cornell
Q. --before the deputy came and hung up?

[redacted]
A. They were beating him.

Nemeth
Q. You still heard stuff in the background?

[redacted]
A. Yes. Yes.

Nemeth
Q. Okay. All right. You're gonna call me when you get that phone bill right? 'Cause I need to get that. All right. We'll end the taped interview at 1656.

END OF INTERVIEW

DOCTOR MATTHEW DUNN
I.C.I.B. INTERVIEW 1-9-95

WITNESS INTERVIEW

CASE NUMBER 494-00023-2300-444

DR. MATTHEW DUNN

Hamilton

Q. This date is January 9, 1995, it's approximately 1625 hours. We're here at University Hospital. We're gonna be discussing an incident with Dr. Matthew Dunn. The incident occurred on October 27, 1994, at approximately 0030 hours, in Men's Central Jail. The case is being investigated under ICIB File Number 494-00023-2300-444. Present in the room is Sergeant Ron Bell and myself, Sergeant Eric Hamilton, both from Internal Criminal Investigation Bureau. Dr. Dunn, did you have a chance to examine a patient by the name of [redacted] on or about October 27, 1994?

Dunn

A. Yes.

Hamilton

Q. Okay, can you tell me, tell us something about the contact or the examination?

Dunn

A. Well I was asked to see because of a, a painful swollen left testicle after the patient had been assaulted. And when I went to see the patient, I asked him how this happened. And he said he was, he was beat up. And he had injuries on the face as well, was consistent with what he was telling me. He said he was also kneed in the, in the groin on the left side of the groin with pain and swelling of that left testicle after he was hit there. On examining him, um, found to have a very swollen testicle, very tender, ex, exquisitely tender. I could not get a good exam because of the tenderness. I actually had to resort to using some, a local anesthetic, lidocaine to do a cord block, which essentially anesthetized the, the testicle. It gives me a better idea of what the testicle feels like and essentially felt what I thought was a large smooth testicle. I didn't think there was too much going on until I actually got the ultra sound which was, confirmed a fracture of the testicle. And it was after seeing that, that I decided to take the patient to the operating room.

Hamilton
Q. Okay. You, you said that he, he had injuries, other injuries.

Dunn
A. He had injuries, obvious injuries to his face. In fact, he had already been sutured up.

Hamilton
Q. Okay.

Dunn
A. To, I think, a, a laceration over his eyebrow from what I remember.

Hamilton
Q. Did you see anything else, or remember any other injuries to his face or by, body?

Dunn
A. Just to the face and head. To the body, I don't remem-, I don't recall any other injuries. I usually examine their abdomen to find, make sure that they're not tender there. He wasn't tender but, and the only thing else I remember was the testicle being very swollen. But there's no skin breakdown, or, or signs of, of any cuts or lacerations to the, to the groin. More consistently...

Bell
Q. How about any bruising in the area of the groin?

Dunn
A. I'd have to re-, resort to my own notes to see if their was. I'm sure I, I'm usually, in this type of situation there is some ecchymosis that, that goes on.

Hamilton
Q. (Pages turning) Those are the notes from the biopsy. They start right there.

Bell
Q. If there was bruising, would you have noted it?

Dunn
A. Yes. I had another consult note - that I don't see here.

There should have been another consult note.

Hamilton

Q. I got those notes from your clerical staff (chair scuffing against floor) (inaudible). Did you actually examine Mr. [redacted], or you, from head to toe? Or did you just examine...

Dunn

A. ...No, I don't usually go from head to toe only because I'm, I assume that's already been done by the ER Physicians and I've been called for a particular problem. So I usually do not. I usually stick to the urologic system which usually, I usually start from the abdomen down to like, the, the thighs where I usually work. Sometimes I glance further if I'm suspicious about other things going on. But, in the situation, I was just a, very focused exam.

Hamilton

Q. Okay. Prior to the interview, you talked about bleeding (inaudible) the patient that you noticed the pat-, the patient's testicle area. Can you tell us about that?

Dunn

A. You mean what, during the operation.

Hamilton

Q. Well, you said, yes.

Dunn

A. That's what I was talking about...

Hamilton

Q. ...Okay...

Dunn

A. ...during the operation. He, there is a space, a potential space around the testicle. And in, in certain people, this is filled with fluid. In his case, it was full of blood. And from my, looking at the op note, it was, it was dark blood, which meant that it was a little old, but still, what were talking, within a few hours, within a couple hours, actually more than a couple hours, usually when you're talking about the county system. 'Cause by the time I saw him and the time I took him to the

operating room, a lot of time had, had already lapsed. But there was blood and the testicle was just splayed open. It, it appeared to be a very fresh injury. It did not appear to be an injury that had been there for a long period of time, meaning days, because the, there wasn't whole lot of fibrosis going on, which is just like beginning of scar tissue being formed. Everything just looked still pretty fresh. (Inaudible).

Hamilton

Q. Now when you say fresh, can you give us hours or days, or to your best...

Dunn

A. ...I'd say within one day. I'd say in a period of less than 24 hours.

Hamilton

Q. So he couldn't have been injured, let's say, a week prior to this incident...

Dunn

A. ...From what I saw, no, no. The injury that I had seen, and he could have had a smaller injury that I couldn't tell because of the condition of his testicle but the condition that I had seen then was a, a relatively fresh, meaning, I'd say sometime within the, the last 24 hours.

Hamilton

Q. Okay. Was the injury consistent with a kick, for example, or...

Dunn

A. ...Yes.

Hamilton

Q. How 'bout a knee?

Dunn

A. Yes, could be the knee.

Hamilton

Q. How 'bout somebody stepped on...(drawer shuts)...this person's testicle.

Dunn

A. Stepped on, no he'd have to have hit it against the body. It would of been hard, I guess if he was on the ground, stepped on and crushed against his groin or against his, his body...

Hamilton

Q. ...The ground or something...

Dunn

A. ...Yeah, it was some form of blunt trauma.

Hamilton

Q. Okay. Do you have anything?

Bell

Q. Did you ever find your notes on the bruising in there?

Dunn

A. No, I didn't, I can't find my initial consultation, no.

Bell

Q. (Inaudible).

Dunn

A. Oh here it is, here it is. I said no, okay. I didn't notice any, any ecchymosis...

(PA system)

Dunn

A. ...bruising of the perineum. I just mentioned that there was tenderness and swelling. He's a black gentleman, too, well that...

Hamilton

Q. ...Right...

Dunn

A. ...sometimes makes that a little bit more difficult, but I don't remember.

Bell

Q. So you didn't note any...

Dunn
A. ...Any obvious ecchymosis but that's, that's just, designates injury to the skin.

Bell
Q. Ecchymosis is...

Dunn
A. ...Ecchymosis essentially...

Bell
Q. ...Bruising...

Dunn
A. ...Yeah, it's essentially large bruising, the breaking of blood vessels under the skin and then you...

Bell
Q. ...Okay...

Dunn
A. ...get a purplish, reddish purplish discoloration.

Bell
Q. Okay.

Bell
Q. Did we mention on tape about his statement to you about how he got injured? Did he talk about that?

Dunn
A. He told me he was beat up by an officer. I think he, think he mentioned a security guard. I'm not quite sure who or the exact rank of the person who hit him. But it was someone, some type of officer that, that beat him up.

Hamilton
Q. Did he say how many?

Dunn
A. No, he didn't.

Hamilton

Q. Did he say how many times he was kicked, punched or...

Dunn

A. ...He just said many times.

Hamilton

Q. Okay.

Dunn

A. He didn't give me a number.

Bell

Q. Were the injuries you saw be consistent with being kicked in the groin 20 times?

Dunn

A. It's hard to say. I can't tell how many times he was kicked. It could have been one good kick or it could have been a, a number of smaller, lesser kicks.

Hamilton

Q. Is it common for him not to swell? In that area after being kicked, you would think that, being a layman, would be some sort of swelling.

Dunn

A. Oh yeah.

Hamilton

Q. And he wasn't swollen...

Dunn

A. ...No he was swollen. Oh no, no. Yeah, he was definitely swollen.

Hamilton

Q. Okay.

Dunn

A. That's definitely documented in my note. That the testicle..., the scrotum is very, very, the scrotum skin is very elastic and, and it swells very easily.

Hamilton

Q. Would he be able to move around if he was kicked in the groin like he was, would he be able to...

Dunn

A. ...He'd have difficulty. He'd have difficulty walking because the testicle moves with walking and it would be very painful.

Hamilton

Q. Is it consistent with a person being severely damaged like he was to, to be coherent, let's say five minutes after...

Dunn

A. ...Oh yeah, he'd be coherent.

Hamilton

Q. ...(inaudible).

Dunn

A. Oh yeah, he'd be coherent.

Hamilton

Q. Okay would he be...

Dunn

A. ...Unless he was, unless some of the head injuries had something to do with that, but, just being hit in the groin, you're still gonna be lucid.

Bell

Q. I think somewhere around 30 minutes later, as I mentioned before going on tape, there's a videotape of this and he doesn't appear to be in any discomfort as he's being mauled around from side to side. And as I told you, he was hog tied at the time, what would cause the apparent lack of pain, or could cause that?

Dunn

A. If the...

Bell

Q. ...(inaudible)...

Dunn

A. ...If the testicle was just not moving. If it was..he had tight enough underwear it just wasn't moving, it was close...(PA system)...to his body, he might be able to do that. But it'd be unlikely, I think.

Bell

Q. But what?

Dunn

A. It'd probably be unlikely.

Hamilton

Q. Unlikely?

Dunn

A. Someone's rolling down on, especially on their, on their abdomen and having the...

Hamilton

Q. ...Right...

Dunn

A. ...the scrotum hit the ground, that would be more likely that there'd be definite pain. Unless like I said, he had tight underwear and his scrotum was held against his body, tight enough where he rolled on his front side, that the conflict, the testicle didn't touch the ground.

Hamilton

Q. Would it be possible for this person to be injured like he was if, let's say, somebody grabbed his testicles and squeezed it.

Dunn

A. No, you'd have to squeeze pretty tight. This is, this is...

Bell

Q. ...Have to have a hell of a grip?

Dunn

A. This is, I mean a sharp blow to have it splayed open like that.

Hamilton

Q. Reason I ask is because there is indication that this person was grabbed. His testicles were grabbed so that's why I, I just want to make sure we ruled that out that...

Dunn

A. ...No, this, this...

Hamilton

Q. ...he wasn't...

Dunn

A. ...appeared to be more of a high force injury to cause such a fracturing of a testicle in that way, just splayed open like, like an egg.

Hamilton

Q. I can't think of anything else. So you're saying at this point that there's possibility it could have been a kick, it could have been a knee...

Dunn

A. ...Um hum...

Hamilton

Q. ...it could even possibly have been someone actually stepping on the testicle as long, let's say, they were flat on the ground and the person's pressure stepping, but it's not consistent with 30 strikes (inaudible).

Dunn

A. Could be, can't tell how many, can't tell just from looking.

Hamilton

Q. I would think there would be more bruising and less...

Dunn

A. ...Yeah, I would think that...

Hamilton

Q. ...accurate (inaudible)...

Dunn

A. ...you're talking about 30 kicks, I would think that there'd probably be more bruising of the skin in the areas but and you can't tell, I mean it could be one, like I said, one swift kick or it could be, you know, a, more amount of ten lesser kicks...

Bell

Q. ...Could it have been a punch?

Dunn

A. Yeah.

Bell

Q. Is that a yes?

Dunn

A. Yeah, it could have been.

Hamilton

Q. Okay.

Dunn

A. It'd be less likely. I don't think you have as much strength, but, I mean that's speculation.

Bell

Q. Alright.

Hamilton

A. Some of these guys are pretty strong in the jail, deputies, you know work out but I just trying to rule that out. If they can punch a person and cause the same damage. I think that's about it. Do you have any other notes that you can think of? I want to make sure we have all the medical records.

Dunn

A. No, this is it. This is my, this is my consultation note and my op note and if there was a pre-op, you know, and after I saw the ultra sound that I see here, where I document the fracture, and this is a post-op follow ups.

Bell

Q. From your notes, we're talking about the bruising. Somebody's

kicked with a shod foot, approximately 20 times, each, there, would, in your opinion, would there be a little more bruising?

Dunn
A. Well first of all, bruising usually occurs after the fact. And...

Bell
Q. ...Certainly...

Dunn
A. ...usually make, actually a, a, a couple days after the fact...

Bell
Q. ...That's when it really brings out...

Dunn
A. ...Right, right. Whether or not there was some ecchymosis, breaking of the blood vessels within the skin, yeah, I mean, that can happen. I, I don't remember it being obvious with him. Although the, I'm, I, I think I do rem-, I can't quite remember but usually when I see these fractured testicles, it's, it's very red from the reaction...

Bell
Q. ...The scrotum itself. How about around it?

Dunn
A. The area of the thigh and the perineum, I noted that there was no bruising. Perineum would be close to the anus. (Inaudible).

Hamilton
Q. You might think of a person just using common sense, I guess. The person was kicked, you know, once in the groin, he would be moving, but for a person to be, to have been kicked ten (10) to twenty (20) times in the groin, you'd think there would be some sort of movement and be bruising all around, if what the victim is saying...

Bell
Q. ...Unless somebody's been shot 20 times.

Hamilton

Q. ...Yeah, or unless they're holding him down where he couldn't move his feet 'cause obviously you're gonna draw your feet in, your legs.

Bell

A. Speculation.

Hamilton

Q. Okay, well, that's it. Unless you have anything else to add or...

Dunn

A. ...That's it.

Hamilton

Q. Okay, well, we appreciate your time. We're ending this interview at 1641 hours.

END OF INTERVIEW

DOCTOR MATTHEW DUNN
I.A.B. INTERVIEW 11-3-94

WITNESS INTERVIEW

CASE NUMBER IAB 008383

DR. MATTHEW DUNN

Nemeth
Q. Okay. Dr. Dunn, you there?

Dunn
A. Yes.

Nemeth
Q. Okay. Today's date is November 3, 1994. The time is 1528 hours. I'm Sergeant John Nemeth of Sheriff's Internal Affairs. With me on the telephone is Dr. Matthew Dunn. D-U-N-N.

Dunn
A. Yes.

Nemeth
Q. Okay. And what's your birth date Doctor?

Dunn
A. [redacted].

Nemeth
Q. Okay. And do you have a business address we can have?

Dunn
A. 1200 North State Street.

Nemeth
Q. Los Angeles?

Dunn
A. Yeah. Room 5900.

Nemeth
Q. Room 5900. And do you know the zip there?

Dunn
A. 90033.

Nemeth
Q. Okay. And is that the Los Angeles County Medical Center address?

Dunn
A. Yes.

Nemeth
Q. And the phone number that we can best reach you at?

Dunn
A. [redacted].

Nemeth
Q. Okay. And this is in regards to Sheriff's Internal Affairs Bureau case number F as in Frank, 008383. Today I'm going to ask you questions about a surgery you performed on an inmate, [redacted], who is a black male. Do you remember that surgery?

Dunn
A. Yes.

Nemeth
Q. Okay. And do you remember what type of surgery it was?

Dunn
A. Yes it was--I do.

Nemeth
Q. Can you tell me what you performed?

Dunn
A. Scrotal exploration and removal of a severely fractured left testicle.

Nemeth
Q. Okay. And did you speak to Mr. [redacted]?

Dunn
A. Yes I did.

Nemeth
Q. And what was his complaint or what did he tell you happened to him?

Dunn
A. He told me he was kicked repeatedly by the guards in jail in the groin.

Nemeth
Q. Okay. And was he in jail at the Los Angeles County Men's Central Jail?

Dunn
A. I'm not exactly sure what facility he came from.

Nemeth
Q. Do you know, was he in the custody of the Sheriff's Department?

Dunn
A. Yes he was.

Nemeth
Q. Okay. And, did he tell you how many times he was kicked in the groin?

Dunn
A. No, he did not. He just said repeatedly.

Nemeth
Q. Okay. Did you notice physical symptoms that were consistent with his complaint?

Dunn
A. Yes, I did.

Nemeth
Q. And what were those, exactly?

Dunn
A. A swollen, tender left scrotum testicle.

Nemeth
Q. Okay, and did you notice any abrasions or, or other evidence of kicking anywhere else on his body?

Dunn
A. No, I did not. Oh, yes I did.

Nemeth
Q. Okay, where was what that?

Dunn
A. He had some, some facial trauma as well. He had some sutures on his left eyebrow.

Nemeth
Q. Okay, and did he tell you how those injuries occurred, or, or not?

Dunn
A. He said he was beaten-up in the same manner.

Nemeth
Q. Okay. Did you notice any injuries near his groin, let's say, you know, along his inner thighs or, or thigh area, or buttock area.

Dunn
A. No, not that I...

Nemeth
Q. at all?

Dunn
A. ...recall.

Nemeth
Q. Okay. Alright did he tell you that when he was repeatedly kicked in the groin, they were direct hits, or, you know, directly impacting his genital area, or...

Dunn
A. Yes, he did.

Nemeth
Q. Okay. And, so that's consistent with why you didn't see other blows in that area, or other evidence of trauma there?

Dunn
A. I suppose, yes.

Nemeth
Q. Okay, and what did, what medical procedure occurred then?

Dunn
A. In my evaluation?

Nemeth
Q. Right.

Dunn
A. You want me to tell you what I did to evaluate him?

Nemeth
Q. Yes.

Dunn
A. Well, first of all, I did a physical exam, which revealed a very, very exquisitely tender left testicle, and I performed a cord block, which was a, injecting some anesthesia in the (inaudible) region to anesthetize the testicle well enough so I could get a good feel.

Nemeth
Q. Uh-huh.

Dunn
A. So, once that was done, I was able to feel the testicle, which was diffusely enlarged.

Nemeth
Q. How enlarged would you say it was?

Dunn
A. It was moderately enlarged, I'd day it was about a good 5 to 7 centimeters.

Nemeth
Q. Okay, is that 50 percent larger than normal amount, or...

Dunn
A. Oh, yeah, it was about 50 percent larger, definitely.

Nemeth
Q. Okay.

Dunn
A. And actually, initially felt relatively smooth, I thought it was (inaudible) enlarged.

Nemeth
Q. Uh-huh.

Dunn
A. And that was, that was smooth in its contour, and my thought of a fracture at that time was not very high, although he was very tender, I knew he had a significant injury.

Nemeth
Q. Okay.

Dunn
A. And thus proceeded to do an ultrasound of that testicle, which showed a severely fractured testicle, that I, I act, I actually reviewed the ultra sound myself with the Radiologist, and I could see the actual fracture line of that testicle. I then proceeded to schedule him for surgery as soon as possible, and I examined that testicle with the idea of trying to save it.

Nemeth
Q. Repair it?

Dunn
A. Yes, however, it was split into two parts that essentially the majority of it being non vital, so I was forced to take it. There was also, when I examined the spermatic cord, which is the region above the testicle, there was a large hematoma, which is further sign of trauma.

Nemeth
Q. And the hematoma is bleeding, essentially?

Dunn
A. Yes, essentially a collection of blood.

Nemeth
Q. Okay, did, did you form an opinion as to how that injury occurred then?

Dunn
A. Oh, yes, and I felt it to be consistent. It's very consistent with blunt trauma.

Nemeth
Q. Or force trauma?

Dunn
A. Or force trauma

Nemeth
Q. And that's essentially what the patient was complaining of had happened.

Dunn
A. Yes.

Nemeth
Q. Okay, and so you, you wound up removing that, that left testicle then?

Dunn
A. Yes.

Nemeth
Q. And the surgery was successful?

Dunn
A. Yes.

Nemeth
Q. And okay. Those are essentially the questions I had to ask you. Did you, at some point, talk to Mr. [redacted], the inmate after the surgery?

Dunn
A. Yes, I did.

Nemeth
Q. And, do you remember what you said to him?

Dunn
A. I told him that the testicle was so severely damaged we were unable to save it, so we had to remove it.

Nemeth
Q. Okay. I spoke to Mr. [redacted], and I'm gonna add, I'm gonna tell you a statement that he attributed to you and ask you whether you remember making that or not.

Dunn
A. Okay.

Nemeth
Q. Did you say that the testicle was damaged so severely it had been essentially turned into jelly, or words to that effect?

Dunn
A. I said, I believe I said turned into mush.

Nemeth
Q. To mush? So it was severely mushed.

Dunn
A. Yes.

Nemeth
Q. Would you know, or be able to estimate how many kicks it would take to do something like that?

Dunn
A. I really cannot. I would estimate probably depends on how severe the blows are...

Nemeth
Q. Uh-huh.

Dunn
A. ...but I'd definitely say more than two.

Nemeth
Q. Uh-huh. So, as little as 3 kicks, depending on if, if they were forceful enough, could cause the injury you saw, is that correct then?

Dunn
A. I believe so.

Nemeth
Q. Okay. Alright. Those are essentially the questions I have to ask you now. Is there anything that I have failed to ask you, or anything else that you feel may be important into the investigation we're looking into regarding this matter that you want to add now?

Dunn
A. No, that's all.

Nemeth
Q. Okay, we'll stop the taped interview, then, at 1540 hours.

Dunn
A. Okay.

END OF INTERVIEW

NURSE LILLIE ESCOBAR
I.C.I.B. INTERVIEW 1-13-95

WITNESS INTERVIEW

CASE NUMBER 494-00023-2300-444

LILLIE ESCOBAR

Hamilton

Q. Okay, today is January 13, 1995. It is approximately 1551 hours. I'm here at USC Medical Center, Jail Ward, on the 13th Floor, here with Lillie Escobar, who is an RN on the Jail Ward Floor. We're going to be discussing an incident that occurred October 27, 1994, here at the Jail Ward. Nurse Escobar had a chance to examine an inmate by the name of [redacted], who was involved in an altercation at MCJ in the 4400 Module on October 27, 1994. This case is being investigated under ICIB File Number 494-00023-2300-444. Nurse Escobar, did you get a chance to examine inmate [redacted] on October 27, 1994, in the early morning hours here at the Jail Ward?

Escobar

A. Yes, I did.

Hamilton

Q. Okay. Did he make a statement to you when you examined him?

Escobar

A. He told, I asked him how he got his laceration, he had an eye lac on his eyebrow...

Hamilton

Q. ...Okay, before we start...

Escobar

A. ...Uh-huh...

Hamilton

Q. ...I tell you what. You noticed some injuries to the inmate, correct?

Escobar

A. Uh-huh, right.

Hamilton
Q. Can you describe the injuries that you noted?

Escobar
A. He had his upper lip cut, I guess he said from a punch, and a laceration to his eyebrow, I think it was his left.

Hamilton
Q. Okay, if you want to, here...

Escobar
A. ...Uh-huh...

Hamilton
Q. ...You're reviewing your report that you wrote that night?

Escobar
A. Left eyebrow laceration, and a lower lip lac.

Hamilton
Q. Okay, and you got that information from the report...

Escobar
A. ...Correct...

Hamilton
Q. ...That you wrote that night?

Escobar
A. ...And he was complaining of pain...

Hamilton
Q. ...Okay...

Escobar
A. ...And so I asked him where it hurt, and he said his groin area...

Hamilton
Q. ...Okay...

Escobar
A. ...And his testicles.

Hamilton
Q. Okay.

Escobar
A. So he started telling me that while he was in jail, some of the guys, some of the inmates were asking him if he knew someone or other, and he kept telling him, "yes", and the names of these guys. It turned out that they had set him up because he was a rival gang? Maybe a crip or a blood and they were the opposite.

Hamilton
Q. Okay.

Escobar
A. So, he said, all of a sudden they all jumped on him and started beating him up.

Hamilton
Q. Okay. Did he say that's how he got injured?

Escobar
A. Exactly.

Hamilton
Q. Okay, did he describe going to, where this happened?

Escobar
A. He just said in jail, while he was in jail.

Hamilton
Q. Okay, and he didn't say what time it happened...

Escobar
A. ...No...

Hamilton
Q. ...Or anything like that?

Escobar
A. No.

Hamilton
Q. Okay. On your note, it says, simply, that he was involved in

an altercation.

Escobar

A. Exactly right.

Hamilton

Q. Is there a reason why you just wrote, he was involved in an altercation versus what he, he stated to you?

Escobar

A. Well, he...

Hamilton

Q. ...Is it just common practice here...

Escobar

A. ...Exactly...

Hamilton

Q. ...At this facility, just to write a very generic statement...

Escobar

A. ...Yes, because they tend to change their stories, and as it turned out to be later on, he was in the ER room, there was another patient across from him, and he just started telling him real loudly, "Yeah, the cops beat me up, they kicked my ass, they fucked me up," and on and on and on. So, then I stopped and I listened, and I was like, that's exactly why we have the same altercation with several people because they change so many stories. It could be that maybe he had a seizure and he passed out, he maybe has a psych history...

Hamilton

Q. Okay.

Escobar

A. I don't like to say that the police officers, because they all, that's their main complaint is, oh, the cops did it, you know, when reality they come in, you know, pretty altered as far as their mental status.

Hamilton

Q. Okay. Did he?

Escobar

A. But, he did, he, I'm sorry, he did mention that someone in jail, in the jail had set him up and when they found out that he was in a rival gang, that a...

Hamilton

Q. Okay, so initially he told you that he was involved in fight with some rival gang members...

Escobar

A. ...Inmates, right...

Hamilton

Q. ...And then later on, in the morning, he stated to another inmate, which you overheard him state that some cops beat him up.

Escobar

A. Right.

Hamilton

Q. Did he say cops, or did he say deputies, did he...

Escobar

A. ...He just said, the cops fucked me up, they beat me up and I'm gonna sue them...

Hamilton

Q. ...Okay.

Escobar

A. ...You know there's gonna be trouble.

Hamilton

Q. Did he mention how many cops or where?

Escobar

A. He just said, "They all jumped on me, they all kicked my ass."

Hamilton

Q. When he, when you first examined him and he was saying he was beat up by other gang members, were the deputies around, was it, when he first came in from Mens Central Jail and he made that statement, or was it after the deputies left?

Escobar

A. When the Deputies left. But he was being loud about it too.

Hamilton

Q. What do you mean?

Escobar

A. Deputies, deputies brought him in and he's laying there and then he (inaudible)the inmates, and when the deputy stepped out, I mean, they're pretty close to the ER Room.

Hamilton

Q. Right.

Escobar

A. All of a sudden he just started, "Yeah, they kicked my ass, they fucked me up, this is a lawsuit, I'm gonna get my lawyer, get my wife on the phone right now." And I said, "Sir, I have nothing to do with deputies or phone calls."

Hamilton

Q. Right.

Escobar

A. They have to make sure you're well and you're okay.

Hamilton

Q. Okay. But, when he made that statement about being beat up by these gang members, were the deputies, the escorting deputies, were they there?

Escobar

A. No. They were out towards the desk. They bring them to us and then they just step over.

Hamilton

Q. Okay.

Escobar

A. Uh-huh.

Hamilton

Q. His injuries, did you get a chance to examine him from head

to toe, or just where you noted...

Escobar
A. ...It's mainly superficial, right, I asked him, where do you hurt, where, where, you know, were you kicked or whatever, so I noticed his eyebrow laceration, his lip, it was like he was punched, he said...

Hamilton
Q. ...Right...

Escobar
A. ...He was, you know, in a fist fight, and then he said his lower groin, and usually we don't...

Hamilton
Q. ...Right...

Escobar
A. ...Take their pants off and all that...

Hamilton
Q. ...Right...

Escobar
A. ...Of course, he undressed, he said he was in pain, and then the doctor took the physical.

Hamilton
Q. Okay. Did you notice any other injuries to his, let's say, his face,...

Escobar
A. ...No...

Hamilton
Q. ...His head, his ear, his neck, any abrasions, contusions, anything that you may have?

Escobar
A. Several facial abrasions, but...

Hamilton
Q. ...Major?

Escobar
A. You know, right, from, from the fist fight...

Hamilton
Q. ...Okay...

Escobar
A. ...It was from the fist fighting.

Hamilton
Q. Now, when you say abrasions, you're not talking about the lacerations above the eye...

Escobar
A. ...No, it's kind of like, like from punching and...

Hamilton
Q. ...Okay...

Escobar
A. ...Like (inaudible), bruising...

Hamilton
Q. ...Okay...

Escobar
A. ...From hitting him.

Hamilton
Q. Did you notice any swelling to his face or neck or ears?

Escobar
A. I don't remember.

Hamilton
Q. Okay, that's fine, no problem, you're doing fine.

Escobar
A. But an abrasion is kind of like a scrape and...

Hamilton
Q. ...Okay...

Escobar
A. ...Like it would probably swell a little later or something.

Hamilton
Q. Okay. Were those injuries, to the best of your knowledge, were they consistent with being hit, let's say, punched in the face, 20 to 25 times?

Escobar
A. No.

Hamilton
Q. You don't think so?

Escobar
A. I don't think so.

Hamilton
Q. Because of...

Escobar
A. ...Because it wasn't like that many, it was, you know, I'm sure he could have gotten maybe two, maybe two guys, they've got a few, I mean, some good punches, but no, not like if they kicked him and beat him and dragged, you know, (inaudible), so, uh-uh.

Hamilton
Q. Okay. Did you see any swelling in his face or his neck or anything...

Escobar
A. ...I don't know...

Hamilton
Q. ...Like bumps or anything? Okay, that's fine. Did he make any other statements to you while here at this hospital?

Escobar
A. No, not much. Every time I'd ask him "How you feeling, how you doing," he goes, "Well, I don't know how my wife is going to

like it, I'm not going to be much of a man," that's really about it.

Hamilton

Q. And he was referring to the fact that he had his left testicle...

Escobar

A. ...That he knew he was going to lose a testicle.

Hamilton

Q. Yeah, right. When did you see him? When did you examine him, I guess, it's on your report?

Escobar

A. I was the first one to get him when he came in, I was the first one.

Hamilton

Q. Right, what time, what time?

Escobar

A. 0150.

Hamilton

Q. Okay, so zero-150 in the morning of the 27th of October, you...

Escobar

A. ...Uh-huh...

Hamilton

Q. ...You saw him...

Escobar

A. ...Was the first one to see him.

Hamilton

Q. Okay, and then shortly thereafter, you wrote this report. What is the name of this report?

Escobar

A. This is Emergency Department Data Base Info Record.

Hamilton

Q. Okay, and that's your initials, the L.E., correct?

Escobar

A. Right. I get him first, I let doctor know what, we, you know, what I see and all, and then like, with his positive LOC, we would probably do a CAT Scan, a CT of the head, and we go, you know.

Hamilton

Q. How do you remember [redacted], other than this form?

Escobar

A. Because of his story, I really do. I remember the story he gave me, was like, you know, they set me up and all this, and the minute, he went into the E.R. and was next to another black friend of his, he started talking about, really loudly, "Oh, the cops fucked me up," and that's when I looked at him like, wait a minute, he just told me four inmates jumped him.

Hamilton

Q. Right.

Escobar

A. And then, he, you know, he said really loud, I'm gonna sue 'em, you know, they, they did me wrong, and...

Hamilton

Q. ...Okay, okay. And you also know that some Internal Affairs Investigators came up here to look at some charts that you told me about off tape, correct?

Escobar

A. Right.

Hamilton

Q. Okay, and did they, did you talk to 'em, or?

Escobar

A. They wanted to see our records, and we said they have to go through our administrator...

Hamilton

Q. ...Okay...

Escobar

A. ...So, they went and got permission...

Hamilton

Q. ...But, did you talk to 'em or did somebody else talk to the...

Escobar

A. ...They just came and asked for records (clears throat), excuse me.

Hamilton

Q. What I'm saying is, did you, did they talk to you or did they talk to your supervisor...

Escobar

A. ...Supervisors...

Hamilton

Q. ...And you heard that they were up here looking for these records?

Escobar

A. Uh-huh.

Hamilton

Q. Okay. Okay, anything...

Escobar

A. ...Well, [redacted] was on the floor, he had came back from surgery, and they said could we see the records on [redacted]? And I said, "No sir, you have to get permission from Administration." So he left the floor, came back and, and they just copied whatever they saw.

Hamilton

Q. Okay.

Escobar

A. The first thing they looked at was this, because I was the very first one.

Hamilton
Q. Thank you.

Escobar
A. I knew there was gonna be trouble...(laughs).

Hamilton
Q. Okay. Alright, anything else?

Escobar
A. No, sir.

Hamilton
Q. You did a fine job. Thank you.

Escobar
A. Thank you.

Hamilton
Q. I appreciate it. Okay, it's now 1600 hours.

***** END OF INTERVIEW *****

LOS ANGELES COUNTY SHERIFF'S DEPARTMENT

WITNESS STATEMENTS (LAST NAMES F - L)

INTERNAL AFFAIRS BUREAU INVESTIGATIVE REPORT

I.A.B. 0083383 (Book 5 of 8)

CONFIDENTIAL

DEP. [redacted]

I.A.B. INTERVIEW 11-8-95

WITNESS INTERVIEW

CASE NUMBER IAB 008383

[redacted]

Nemeth
Q. My name is Sergeant John Nemeth. I'm with Sheriff's Internal Affairs. I'm with my partner, Sergeant Ernie Gjendem. We're at the Men's Central Jail Captain's office. Today's date is Wednesday, November 8, 19[redacted] is 2240 hours. We're present here interviewing Deputy [redacted]. Deputy [redacted], will spell your last name and state your employee number for the record.

[redacted]
A. Last name spelled, [redacted], employee number [redacted]

Nemeth
Q. Alright. Deputy [redacted], prior to going on tape, I showed you a copy of your rights as a sworn witness in this case. I see that you answered a couple questions and signed your name and affixed your initials to the form. Do you understand your rights as a sworn witness in this case?

[redacted]
A. Yes.

Nemeth
Q. Okay. And as the form said, should we get into areas or should it become evident that you may be a subject in this matter, we will stop the interview at that point and advise you of that, okay?

[redacted]
A. Yes.

Nemeth
Q. Okay. Okay, you were previously interviewed in this case by Internal Criminal investigators. Is that correct?

[redacted]
A. Yes.

Nemeth
Q. Okay. And that was about, not quite a year ago in December of '94?

[redacted]
A. I can't remember the date.

Nemeth
Q. Okay. Alright, I'm holding in my hand a, okay, I gave it...

Gjendem
Q. Did you?

Nemeth
Q. I think I did, 2240, yeah, I'm sure.

Gjendem
Q. (inaudible) you gave it (inaudible).

Nemeth
Q. I'm holding in my hand a 16 page copy of your, the transcript from that interview and what we intend to do today is answer some questions that perhaps weren't fully addressed in this interview, okay?

[redacted]
A. Okay, sir.

Nemeth
Q. Alright, so were you working back on October 27, 1994, on the early morning shift?

[redacted]
A. Yes, that was the day of the incident (inaudible)?

Nemeth
Q. Right.

[redacted]
A. Yes.

Nemeth
Q. Okay. You don't have any independent recollection of that date?

[redacted]
A. No.

Nemeth
Q. No? Okay. Did you take any notes or make any notes in your deputy notebook or anything of that nature regarding this incident?

[redacted]
A. Uh-uh.

Nemeth
Q. Did you write any reports regarding this incident?

[redacted]
A. I can't remember. I think I handled the inmate injury. I don't remember off-hand.

Nemeth
Q. Okay, would you name be on it somewhere if you wrote that?

[redacted]
A. Yeah, it, it would be, it would be as the submitting deputy.

Nemeth
Q. Okay. And did you write any memorandums or anything detailing your involvement?

[redacted]
A. No.

Nemeth
Q. Okay. Why not?

[redacted]
A. The, I guess, the use of force packet that was submitted that night, I came in after the fact, so I didn't have anything to do with the witness (inaudible), anything like that. And I think I was just basically, not a supplemental, but just trying to help take care of things.

Nemeth
Q. Okay. So you wrote nothing except possibly the Inmate Injury Report, right?

[redacted]
A. Yeah, that was it. I don't even see on my (inaudible)...

Nemeth
Q. And I have the Inmate Injury Report and I'm going to look at it right now and see if you wrote it. Okay. So, while I'm looking for this, why don't we, you see something?

[redacted]
A. (inaudible)? One more back. That one?

Nemeth
Q. There we go. Okay. That's Deputy [redacted] submitted by. Let me show you this. Is that, is that the report you thought you, you were thinking of?

[redacted]
A. Yes.

Nemeth
Q. Okay. And is your name at the bottom of it?

[redacted]
A. Yes, it is.

Nemeth
Q. Okay. Do you remember writing it?

[redacted]
A. Uh-huh.

Nemeth
Q. You have to say "yes" or "no."

[redacted]
A. Oh, sorry about that. Yes. Yes, I did.

Nemeth
Q. Okay. Because "uh-huh" and "uh-uh" sounds the same on the tape, so it's hard to, it's hard to make a determination of what you were trying to say. Okay. Now what you wrote on here is, "Inmate [redacted] was involved in an altercation with deputy personnel, refer to attached Use of Force packet. I saw inmate [redacted] had several lacerations and scratches on and about his head and face (you have 1-1/2 inch laceration next to his left eyebrow, 1/4 inch laceration right side of his nose, 1/4 inch laceration on his lower inner lip. All of these injuries were bleeding moderately. I also saw he had a 1/2 inch laceration across the top of his left heel, bleeding slightly." I'm assuming that's that heel of his foot. Is that correct? "Inmate [redacted] also had superficial swellings accompanying his lacerations. I saw no further visible injury. Inmate [redacted] was taken to the clinic via gurney. He was seen initially, seen and initially treated by Nurse Real, number 346. Inmate [redacted] was then transported to LCMC pending further medical attention." Under the Inmate's Statement block, you have, "Because of inmate [redacted] unpredictable behavior and mental disposition, I was unable to get a written statement." Well, did he make a verbal statement to you?

[redacted]
A. No. He, he...

Nemeth
Q. You, did you ask him any questions?

[redacted]
A. Actually I tried to several times and he was just screaming, not screaming, but yelling to the effect that he was saved, yeah, he was saved by a deputy, and that's about all I got out of him.

Even after repeated questioning, so I just put it down that I wasn't able to get a statement.

Nemeth
Q. Okay. You didn't write down that he was saying that he, the deputy saved him here or anything like that?

[redacted]
A. No, because I think that night, we took a video of him.

Nemeth
Q. Right. Were you operating the video camera that night?

[redacted]
A. Yes, I was.

Nemeth
Q. Yeah, okay. I have the video and I've seen it.

[redacted]
A. Oh, okay.

Nemeth
Q. Have you seen the video?

[redacted]
A. I, I was taking it, yes. I haven't seen the actual video, no.

Nemeth
Q. Okay, but you remember because you were operating...

[redacted]
A. Yeah.

Nemeth
Q. ...the camera?

[redacted]
A. They, they looked at me and I guess they figured, "Okay, go, go to the camera." I'm like, "Whatever."

Nemeth
Q. Okay. Okay, and you stated on the video that the deputies interrupted...

[redacted]
A. Some type of...

Nemeth
Q. ...some type of...

[redacted]
A. ...prior altercation...

Nemeth
Q. ...altercation between himself and other inmates in his cell. Is that right? And did he make any other statements how he acquired his injuries, to you?

[redacted]
A. Not that I can, not to me or not that I can remember.

Nemeth
Q. Okay. Did [redacted] complain of pain to you?

[redacted]
A. I don't know if he complained to me directly or he said it in general. I, I can't remember exactly what he was saying, but it, it, he was blabbing.

Nemeth
Q. Okay, on that day what, what caused your attention to, to, you know, first be focused on this incident?

[redacted]
A. We were, Deputy Christolon and Senior Jackson (inaudible), but Deputy Christolon still works with me. We were down in the ODR, just grabbed our trays and getting, getting ready to sit down, and then I think it was by radio or someone, actually the booth person may have called, but I'm pretty sure it's by radio I heard that a fight was in progress with deputy personnel involved in 4400. We dropped our trays, took the elevator back upstairs...

Nemeth
Q. Okay, who's we?

[redacted]
A. Myself, Deputy Christolon, and Senior Jackson.

Nemeth
Q. And all three of you work together in the...

[redacted]
A. In the...

Nemeth
Q. ...Officer's Dining Room in the basement area of the...

[redacted]
A. Yeah.

Nemeth
Q. ...Central Jail?

[redacted]
A. Yes.

Nemeth
Q. And your assignment that night was what?

[redacted]
A. 4000 Prowl.

Nemeth
Q. And Christolon's?

[redacted]
A. 4300 Prowl, which is in, in essence, it's 4000 Prowl 2.

Nemeth
Q. And Senior Jackson?

[redacted]
A. He's was the 4000 Line Deputy, at that night.

Nemeth
Q. Okay. So he's the line supervisor for that, for that night?

[redacted]
A. Yes.

Nemeth
Q. And the three of you were together on your lunch break or whatever. Is that right?

[redacted]
A. Yes.

Nemeth
Q. Okay, so you think you heard on your radio, but it might have been that the (inaudible) deputy...

[redacted]
A. Periodically depending, depending on the booth person, they'll either call down or, you know, depending on the emergence. (inaudible)...

Nemeth
Q. Right, emergent nature of the situation?

[redacted]
A. Yeah. I, I'm pretty sure it was by radio because, yeah, I'm pretty sure it's by radio because I think our 9000 came down too and 5000 came down.

Nemeth
Q. Okay. Alright, you got, you got the call to return to module 4400 because there was a deputy involved in a fight. Is that what you said...

[redacted]
A. Uh-huh.

Nemeth
Q. ...the information was? Yes?

[redacted]
A. Yes.

Nemeth
Q. You have to say "yes" for the tape.

[redacted]
A. (inaudible).

Nemeth
Q. You remember about what time this was?

[redacted]
A. No, I don't.

Nemeth
Q. Other than it was your lunch break time.

[redacted]
A. I'd say, well it had to be about, let's see, at the time Senior Jackson was here, we probably were down there about 12:30. That's the usual time (inaudible).

Nemeth
Q. 12:30 a.m.

[redacted]
A. Yes.

Nemeth
Q. Is that right?

[redacted]
A. 12:30 a.m.

Nemeth
Q. Okay. Okay, so the three of you then returned back to...

[redacted]
A. Yes (inaudible)...

Nemeth
Q. ...4000 area?

[redacted]
A. Uh-huh.

Nemeth
Q. Did anybody go with you?

[redacted]
A. I don't remember anybody trailing with us, no. It's just us three. We went up on the freight elevator.

Nemeth
Q. Okay. How many deputies were in the ODR when this radio call came out?

[redacted]
A. Hard to say.

Nemeth
Q. More than three of you?

[redacted]
A. I can't remember. I would, I would think there'd be more than three of us because they, there were a couple of us that, that like to beat the crowds before everybody else.

Nemeth
Q. For the food?

[redacted]
A. Yeah.

Nemeth
Q. Okay.

[redacted]
A. So I, I, I would think there was more people there.

Nemeth
Q. Alright. Now you don't remember anybody else going with you?

[redacted]
A. No.

Nemeth
Q. Is it possible somebody else trailed behind you?

[redacted]
A. They could have, just out of courtesy when they hear something going on.

Nemeth
Q. Uh-huh. Did you see anybody coming behind you?

[redacted]
A. No.

Nemeth
Q. Did you later learn that somebody came in behind you?

[redacted]
A. Uh-uh.

Nemeth
Q. Shaking your head, no?

[redacted]
A. No.

Nemeth
Q. Okay. Okay, so you returned, you and Jackson and, what's your partner's name?

[redacted]
A. Christolon.

Nemeth
Q. Christolon. And tell me what happened.

[redacted]
A. We entered into the module. I saw Sloan. No, not Sloan. I'm sorry. Kluth, he was the one that I later found that he was in a headlock with this individual, but I saw him outside in the sally port area.

Nemeth
Q. Stop a second. Did you see him in a headlock?

[redacted]
A. No. I was told later.

Nemeth
Q. Okay. Just tell me what you saw.

[redacted]
A. Okay.

Nemeth
Q. You get there and what do you see?

[redacted]
A. I saw Deputy Kluth standing out in the sally port area apparently, looking like he was trying to catch his breath. I saw Deputy Sloan inside the security area, the area where they controlled the gates and stuff like that, and...

Nemeth
Q. What, what, what we refer to as the 4400 module officer's control booth?

[redacted]
A. Security booth.

Nemeth
Q. Security booth?

[redacted]
A. Security booth.

Nemeth
Q. Okay. So Sloan's in...

[redacted]
A. And...

Nemeth
Q. ...the booth.

[redacted]
A. Uh-huh.

Nemeth
Q. Booth is outside the 4400 booth, standing in the vicinity of the sally port to what, what rows?

[redacted]
A. Almost in front of the door, that's as I entered. He was almost in front of the security booth's door.

Nemeth
Q. Okay.

[redacted]
A. And I think [redacted] and I can't think (inaudible) alright...

Nemeth
Q. Is he [redacted] now?

[redacted]
A. Yes. Just (inaudible)...

Nemeth
Q. Okay. So you've named three of four that were [redacted]

[redacted]
A. [redacted] I saw both [redacted] and [redacted] on the left-hand portion of the sally port area.

Nemeth
Q. Left-hand portion as you were coming in facing the...

[redacted]
A. The officer's booth.

Nemeth
Q. Okay. What rows would that be?

[redacted]
A. That would be Able-Charlie row.

Nemeth
Q. AC side?

[redacted]
A. Yes.

Nemeth
Q. Okay.

[redacted]
A. And as I walked in further, on the right-hand side closest to, that'd be the Able shower, I saw the inmate.

Nemeth
Q. The what? What side?

[redacted]
A. The right-hand side of the sally port.

Nemeth
Q. Okay. You just said that [redacted] and [redacted] were on...

[redacted]
A. Right.

Nemeth
Q. ...the left.

[redacted]
A. And that...

Nemeth
Q. Which would be, you said was AC, right?

[redacted]
A. Yeah.

Nemeth
Q. Okay, now you're saying the right is A...

[redacted]
A. No, I'm sorry.

Nemeth
Q. ...you mean that...

[redacted]
A. Baker, Denver row.

Nemeth
Q. Okay.

[redacted]
A. That would be the Baker, Denver row showers.

Nemeth
Q. Okay.

[redacted]
A. I saw the inmate hobbled and handcuffed and he was lying in kind of a, well, blood. He was lying in blood, and he was lying on his side. And I believe he was facing us as we entered. I don't remember exactly. He was lying on his side and I think he was lying on the side that was basically you could see his torso. He was facing us.

Nemeth
Q. Okay, when you say, facing you, was he facing, that would mean his face would be pointing at the AC side of module, or his face pointing towards the, the laundry, or not laundry, the janitor closet area?

[redacted]
A. His head was that direction towards the mop room.

Nemeth
Q. The mop room?

[redacted]
A. Yeah.

Nemeth
Q. And, and his face?

[redacted]
A. His face was, I guess it would be, he would be facing us as we rounded the corner so he was able to see us as we walked in.

Nemeth
Q. Okay. So in other words, the back of his head was pointing towards the B shower and...

[redacted]
A. Exactly.

Nemeth
Q. ...the face was pointing towards the A shower?

[redacted]
A. Uh-huh.

Nemeth
Q. And his head was closest to the mop room?

[redacted]
A. Yes.

Nemeth
Q. His feet closest to the module then? To the module...

[redacted]
A. To the, to the gate.

Nemeth
Q. ...gates. Okay.

[redacted]
A. Yeah, I think the Denver row gate.

Nemeth
Q. And so that would, he would, by virtue of that position, he's leaning on his left shoulder? Left side?

[redacted]
A. Yeah. (inaudible)...

Nemeth
Q. Leaning on his left side?

[redacted]
A. Yeah, yes.

Nemeth
Q. Okay. And you come in and see that, and what condition is the inmate in? Is he secured or is he...

[redacted]
A. He was in a secured position where he was handcuffed and tarped or hobbled. I really don't (inaudible).

Nemeth
Q. Okay.

[redacted]
A. And at that time, his behavior seemed like, I guess he was potentially combative, but he was just, he was just screaming at this time since he couldn't have any type of movement. He was just...

Nemeth
Q. He was bound hand and foot, right?

[redacted]
A. Yeah.

Nemeth
Q. Handcuffed and his ankles were secured with some type of rope, hobble.

[redacted]
A. Uh-huh.

Nemeth
Q. Okay. And that was then attached to his handcuffs.

[redacted]
A. Yes, it was.

Nemeth
Q. Okay. Was, was anybody else there, besides those individuals you described?

[redacted]
A. Other than myself and my partner and the senior at the time.

Nemeth
Q. Your partner being?

[redacted]
A. Christolon, Chris Christolon.

Nemeth
Q. Chris Christolon. That's it?

[redacted]
A. That's it. And...

Nemeth
Q. Okay. And what, do you know what time you got there?

[redacted]
A. No, I don't. I'm assuming, probably, probably less than three minutes, four minutes. Probably four minutes safely, from the ODR to get into the elevator and elevator goes real slow, so I'd say less than four.

Nemeth
Q. Okay, less than four minutes. So you figure about four minutes from the time you received the notification, whether it was by radio or phone, you're not sure which. Think it was radio, right?

[redacted]
A. No, I'm pretty sure it was radio.

Nemeth
Q. Okay. Okay, now you have no reports or notes or anything that, that indicates how you were notified of this. Is that right?

[redacted]
A. That's correct.

Nemeth
Q. Or what time you were notified of this.

[redacted]
A. That's correct.

Nemeth
Q. Or what time you got there.

[redacted]
A. Actually it would be on the, in the Injury. When the incident occurred or at least approximately when the incident occurred.

Nemeth
Q. Okay. Alright, it shows it occurred approximately 0030, but what I'm asking you is, is there any record anywhere that shows what time you were notified...

[redacted]
A. No.

Nemeth
Q. ...of the incident?

[redacted]
A. I don't think there would be.

Nemeth
Q. Do you have any record or notes or anything that shows what time you actually arrived at the scene of the incident?

[redacted]
A. No.

Nemeth
Q. Was there any record that says actually, for certain, how you were notified of the incident?

[redacted]
A. No.

Nemeth
Q. Alright. So you, you got there and it's just those four individuals in there, and does it look to you, based on what you just described to us, that the incident's over when you arrived?

[redacted]
A. Yes.

Nemeth
Q. Okay. And did you talk to the deputies involved?

[redacted]
A. I basically asked Kluth, since he was panting, what had happened and he had mentioned something to the fact that he got choked and that's about where I said, "Okay."

Nemeth
Q. Now that was, that was the end of your inquiry into it?

[redacted]
A. Yeah, I was, I was going to wait for it on the, the Use of Force memo because I usually, I, not usually, but I like to read those after they're completed (inaudible) and I could come see how everybody wrote it as a whole report.

Nemeth
Q. Okay. Alright, so did you ask anybody else besides Kluth?

[redacted]
A. No, I don't think so. Uh-uh, no. I think that I asked Kluth and that was it, only because I was concerned that he might've gotten hurt. I, I don't remember asking him or not.

Nemeth
Q. Okay. Was the inmate struck by anybody or touched or put in any control holds by anybody while you there?

[redacted]
A. No.

Nemeth
Q. When you asked Kluth about what happened, he said that the inmate, what'd you say, choked him?

[redacted]
A. I think, I think he said something like, he got choked.

Nemeth
Q. Okay. Did he tell you when that happened?

[redacted]
A. I'm sorry. Right before we...

Nemeth
Q. Saying right, got to make...

[redacted]
A. ...got there...

Nemeth
Q. ...a clear answer for the tape.

[redacted]
A. Yes. No.

Nemeth
Q. He didn't tell you?

[redacted]
A. No, he didn't.

Nemeth
Q. No, he did not tell you.

[redacted]
A. He did not tell me. I am assuming that it had happened just prior to our arrival, just because of his physical condition, breathing heavy.

Nemeth
Q. Okay.

[redacted]
A. He was real red in the face.

Nemeth
Q. Okay, so based on Kluth breathing heavy and him being flushed in the face, you're thinking that you got there just, what, seconds after the incident concluded, or maybe a minute or two minutes, or give me a, give me an idea of how long you think...

[redacted]
A. I would think at least a minute after, just judging from, he was already hobbled, he was already handcuffed. That alone takes, you know, awhile depending on how combative the individual is.

Nemeth
Q. Right. Did you ever see the inmate struggling with any of the deputies?

[redacted]
A. No.

Nemeth
Q. Did you see the inmate choke Kluth?

[redacted]
A. No.

Nemeth
Q. Did you see the inmate attempt to strike or kick anybody?

[redacted]
A. No.

Nemeth
Q. Okay. So, is it safe to say that you got there after everything was over? Is that, is that an accurate statement?

[redacted]
A. Yes.

Nemeth
Q. Okay. So, you don't know though how long you got there after everything was over, do you?

[redacted]
A. No, I don't.

Nemeth
Q. Could it have been as long as ten minutes after everything was over?

[redacted]
A. I don't think so because I don't think there was a time span or it could've, couldn't have taken us that long to get up there.

Nemeth
Q. No, no. Don't misinterpret what I'm asking you. I'm not saying how long from the time you got the call...

[redacted]
A. Oh, okay.

Nemeth
Q. ...I'm saying how long from the time the man was handcuffed.

[redacted]
A. Oh, no.

Nemeth
Q. In other words, do you know when the call was placed to you? Was that placed immediately upon initiation of contact between the inmate and Kluth?

[redacted]
A. No, I don't know.

Nemeth
Q. Do you know when it all was put, put out?

[redacted]
A. No.

Nemeth
Q. Do you, in other words, you have no idea how long the inmate and the deputy or deputies were struggling before anybody was notified, do you?

[redacted]
A. That's right.

Nemeth
Q. Okay. So again going back to my question, now that you understand that part of it, got that out, do you have any idea how long the inmate had been hobbled and handcuffed before you arrived there?

[redacted]
A. No, I don't.

Nemeth
Q. Okay. Had any other deputies been in module and left before you got there?

[redacted]
A. I didn't see anyone leaving at that time.

Nemeth
Q. Okay. Did, when you asked Kluth, "Well what happened," did he say, "Yeah, the other guys were already here and left," something like that?

[redacted]
A. No.

Nemeth
Q. So, is it your belief that you and Christolon and Senior Jackson were the first deputies, aside from the four we've already mentioned, of Kluth, Sloan, [redacted] and [redacted] or Schop, whatever it is, do you believe that you were the first deputies there?

[redacted]
A. No.

Nemeth
Q. You don't? Who else was there?

[redacted]
A. After going back to the control booth, after the whole incident was done and writing an Inmate Injury, I forgot who the booth person was, but that person had told me that, I guess, a couple 9000 deputies came down, 9000 Floor deputies and, I think, maybe 5000 deputies came down, before we even got there. So that's how I found out we were not the first ones there.

Nemeth
Q. Now who's telling you this?

[redacted]
A. The booth person.

Nemeth
Q. And who's that?

[redacted]
A. I, I think it was Deputy Howard.

Nemeth
Q. She's the scheduled booth deputy that date, and when we're saying "booth deputy" we're referring to the 4000 floor control booth...

[redacted]
A. Yes.

Nemeth
Q. ...deputy, right?

[redacted]
A. I, I think...

Nemeth
Q. Well she's indicated as the booth deputy on the in-service...

[redacted]
A. Oh, okay.

Nemeth
Q. ...for that night, so does jog your memory any?

[redacted]
A. Yes.

Nemeth
Q. And it was her...

[redacted]
A. She was, she, she's normally my partner, but she was [redacted] at the time so (inaudible)...

Nemeth
Q. Okay, that's why she was in the booth?

[redacted]
A. Yeah.

Nemeth
Q. Now do you remember her, being that she's your partner, do you remember it was her that told you this?

[redacted]
A. Yes, I'm pretty sure...

Nemeth
Q. Okay.

[redacted]
A. ...it was her.

Nemeth
Q. And what did she tell you?

[redacted]
A. She just said a couple 5000, actually she said 9000 for sure, but I think 5000 was mentioned also, that they came down, went in, and went right back out. So, judging from that, I think it went Code 4 and everybody else got there.

Nemeth
Q. Did she tell you who...

[redacted]
A. No.

Nemeth
Q. ...came from 4, 5000 and 9000 floors?

[redacted]
A. I can't remember anybody specifically, but...

Nemeth
Q. Okay, you can't remember. Does that mean she didn't tell you, or does that mean she told you and you can't remember now?

[redacted]
A. She may have told me. I'm, usually like when we refer to something, yeah, 9000 did this, or 9000 came down and did this, you know, you work on a daily real quick and find out who the (inaudible) were and that's about it. (inaudible).

Nemeth
Q. Uh-huh. Well, how many people are assigned to, to 9000 on that early morning shift?

[redacted]
A. Including the dorm?

Nemeth
Q. Right.

[redacted]
A. One, two, I'd say anywhere from 10 to 15 total, and 3 moving individuals like the prowl and the rat. There's probably about 5 or 6 total.

Nemeth
Q. The prowl and the what?

[redacted]
A. RAT, Roving Patrol. They handle the movement of inmates (inaudible)...

Nemeth
Q. What do you call it? Rap, R-A-P?

[redacted]
A. RAT.

Nemeth
Q. R-A-T.

[redacted]
A. Yeah.

Nemeth
Q. What does that stand for?

[redacted]
A. I don't know. That's just a ongoing term that's been here since I've been here, it's been referred to RAT.

Nemeth
Q. RAT, and it means Roving Patrol, or something (inaudible)...

[redacted]
A. Roving Patrol, they're, they're escorts. They move the bodies to day rooms and...

Nemeth
Q. Okay.

[redacted]
A. ...vice versa break up day rooms.

Nemeth
Q. Alright. And just for benefit of the poor individual who's going to be transcribing this tape, can you spell your partner's name, Christolon, or whatever it is?

[redacted]
A. C-H-R-I-S-T-L-O-N.

Nemeth
Q. Okay, and the other individuals that we've been referring to are Sloan, S-L-O-A-N, [redacted] [redacted], [redacted] or [redacted], any number of ways to pronounce that, [redacted], and Kluth, K-L-U-T-H. And then you were referring to Senior Jackson and that's common spelling, right?

[redacted]
A. Yeah.

Nemeth
Q. Okay. So you've got the RAT people and so when somebody says, 9000 came down, you just assume it's any, any of those 15 individuals...

[redacted]
A. Okay...

Nemeth
Q. ...that are assigned or do you assume it's these people that have roaming or roving abilities?

[redacted]
A. See at that time, I don't know because that's when the chow reliefs were taking effect. There could be people relieving other people and then they heard the call or...

Nemeth
Q. Okay.

[redacted]
A. ...or they were notified of this, so it could be anybody else on 9.

Nemeth
Q. Alright, so you had no idea who it was?

[redacted]
A. No.

Nemeth
Q. She never told you their name?

[redacted]
A. Well, she might have mentioned if before, but I can't remember any names now.

Nemeth
Q. Okay. Okay, so you learned that some other individuals were there. Is that right?

[redacted]
A. Yes.

Nemeth
Q. How many?

[redacted]
A. I don't know.

Nemeth
Q. More than two?

[redacted]
A. About, I don't know, can't remember. I would think...

Nemeth
Q. Well...

[redacted]
A. ...with the re, response, it could be more than two coming down just from anywhere.

Nemeth
Q. Okay.

[redacted]
A. Two (inaudible)...

Nemeth
Q. At least two from each floor. Is that what...

[redacted]
A. I, I'd say that rather safely, yeah (inaudible) one.

Nemeth
Q. Okay. You may not remember any names now, but do you remember any quantities of people? We heard he had a couple guys from, like three or four...

[redacted]
A. No.

Nemeth
Q. ...or whatever.

[redacted]
A. No. See, I don't remember. And so when we came on, everybody was already gone.

Nemeth
Q. Okay. So you, you're saying you learned this later from talking to your partner, who was [redacted]...

[redacted]
A. Yes.

Nemeth
Q. ...at the time, Deputy Howard.

[redacted]
A. Yeah.

Nemeth
Q. She had mentioned earlier, by the way...

[redacted]
A. Yeah.

Nemeth
Q. ...a few other guys came down.

[redacted]
A. Yeah.

Nemeth
Q. Is that right?

[redacted]
A. Yes.

Nemeth
Q. Okay. Now this form that you submitted says that you attached the Use of For, Use of Force forms. Did you do that with this?

[redacted]
A. I submitted that...

Nemeth
Q. Inmate injury?

[redacted]
A. ...with the packet that the sergeant and those guys were filling out. I just said, "Here's the Inmate Injury."

Nemeth
Q. Those guys, the...

[redacted]
A. The ones that were mentioned, [redacted] [redacted] Sloan, and, and...

Nemeth
Q. Kluth?

[redacted]
A. Kluth.

Nemeth
Q. Okay, so you, you did what? You combined this, this Inmate Injury Report with those reports that they had?

[redacted]
A. Yes.

Nemeth
Q. Okay. Did you photocopy those and attach those Use of Force forms to this document so that this would be able to stand alone by itself?

[redacted]
A. No, I usually just turn that in and then Admin takes care of the photocopying or the necessary photocopying to be attached to what not. Because that's just turned in up to a watch...

Nemeth
Q. Okay.

[redacted]
A. ...sergeant's office...

Nemeth
Q. Alright.

[redacted]
A. ...and that's out of my hands from there.

Nemeth
Q. Okay. Now you said before that you, you like to review Use of Force packages. Did you review the Use of Force package in...

[redacted]
A. No, I was tired.

Nemeth
Q. ...this case?

[redacted]
A. This happened pretty late in our shift and basically they were (inaudible) shift and I...

Nemeth
Q. Well, let's see, what is your shift? Is it [redacted] in the morning?

[redacted]
A. Yes.

Nemeth
Q. Okay. We've already established the incident occurred at approximately 12:30 a.m., which would put it about 2 1/2 hours into your shift, correct?

[redacted]
A. Yeah.

Nemeth
Q. So you're saying it happened at the end of your shift, or that's (inaudible)...

[redacted]
A. No, just...

Nemeth
Q. ...in the beginning of your shift, isn't it?

[redacted]
A. I consi, I consider that the middle because I had to do chow relief, right, 12:30 to 3:00 is when we start doing the chow relief. And then since this happened, we were basically logged back where I had to go do chow release after that and then we got dings coming up all night long, mental observation patients coming up all night long, where I (inaudible) notified and then we have to escort them up. And we had a court line chow to back up upstairs and a court line chow to back downstairs, so...

Nemeth
Q. So you were real busy after that?

[redacted]
A. Yes. And I don't even know if that was a court line night, but that's usually how my night goes...

Nemeth
Q. Uh-huh.

[redacted]
A. ...as far as my duty assignments.

Nemeth
Q. Okay.

[redacted]
A. But I (inaudible)...

Nemeth
Q. So you never read, you the use...

[redacted]
A. I just ran out of time.

Nemeth
Q. Ran out of time. You never read the Use of Force forms in this case then, did you?

[redacted]
A. No, I didn't.

Nemeth
Q. Okay. Did you ever learn at some point what, what was said, or did you talk to Kluth later on or [redacted] or any of the involved deputies?

[redacted]
A. No, I usually don't talk about it or talk about any of the incidents that happen when deputies, only because, you know, it's their story and if something should become of it, that's what they're going to have to rely upon later.

Nemeth
Q. Okay, but you said earlier, you like to read the Use of Force forms, don't you?

[redacted]
A. Yeah, I just, people's narratives just to see their writing style.

Nemeth
Q. Did you do that in this case?

[redacted]
A. No.

Nemeth
Q. Even after the fact? Even the next day or two?

[redacted]
A. No, because that, that was already turned in and there were no copies floating around. Tho, those don't end up floating around as far as copies to be seen on duty.

Nemeth
Q. How do you read the other one?

[redacted]
A. When they happen on our floor. Usually I'm involved in it or something to that effect where people (inaudible) and they glanced over it.

Nemeth
Q. Did this happen on your floor?

[redacted]
A. Yes, it did.

Nemeth
Q. I don't understand the difference why this wasn't available to you.

[redacted]
A. I wasn't one of the primaries.

Nemeth
Q. What do you mean primaries?

[redacted]
A. A primary deputy involved in the use of force. I only, I only read the ones on the floor that I'm, I'm directly related to, or like I said, if I have time to read it.

Nemeth
Q. Okay. Well you were involved in this incident in some re, some regard, right?

[redacted]
A. Yeah.

Nemeth
Q. Okay. So you're telling me, you didn't even look at the reports, you know, a day or two, or a week later.

[redacted]
A. No, I couldn't. Like I said, it was already turned in.

Nemeth
Q. What do you mean, you couldn't?

[redacted]
A. It was already turned in at the end of our shift and...

Nemeth
Q. How do you read these other ones that go, go out?

[redacted]
A. If the sergeant's sitting in the office and doing his paperwork inside the office, in our booth, and I'll kind of glance over and look, but...

Nemeth
Q. These aren't available for you to review after they've been submitted and approved?

[redacted]
A. No. They usually don't (inaudible)...

Nemeth
Q. Not like crime, how about the Crime Reports that are written and...

[redacted]
A. Oh, Crime Reports are floating around all the time, but these usually are not.

Nemeth
Q. Did you read the Crime Report connected with this incident?

[redacted]
A. I don't remember reading it.

Nemeth
Q. Do you know who wrote it off the top of your head?

[redacted]
A. Nope.

Nemeth
Q. Okay. Now how about if I show it to you and let's see if that jogs your memory. I can tell you it was written by Deputy Kluth. Does that do anything for you?

[redacted]
A. Uh-uh.

Nemeth
Q. Okay, I'll show you a copy of Sheriff's Complaint Report Battery on a Peace Officer, file number 94-03357-51, dated 27th of October, '94, written by Deputy Kluth.

[redacted]
A. Alright.

Nemeth
Q. Take a look at that. See if that looks familiar to you.

[redacted]
A. No, I don't remember reading it.

Nemeth
Q. Okay. Let the record show that Deputy [redacted] has examined the Crime Report prepared by Deputy Kluth and what he, what's your statement?

[redacted]
A. I do not remember read...(END OF SIDE A OF TAPE).

Nemeth
Q. Okay, continuing with the interview of Deputy [redacted] Just prior to the other side of the tape expiring, Deputy [redacted] I asked you, after having reviewed the report written by Deputy Kluth, do you recall having read that before?

[redacted]
A. No, I do not.

Nemeth
Q. Okay. Are you certain you haven't read it before.

[redacted]
A. Yes.

Nemeth
Q. Okay. Alright. Now it's, at the, at some point, you learned that there was some further action resulting from this incident. Is that correct?

[redacted]
A. Uh-huh, yes.

Nemeth
Q. Okay. And when did you learn that?

[redacted]
A. I, I would say, meaning that there was going to be an investigation?

Nemeth
Q. Right.

[redacted]
A. I, I, I'd want to say about a week. I don't know. Could have been later.

Nemeth
Q. A week after the incident?

[redacted]
A. Yes.

Nemeth
Q. Okay. And did you, at some point, learn that the four deputies we talked about, Kluth, Sloan, [redacted] and [redacted] were [redacted] here at Central Jail?

[redacted]
A. I don't, I don't remember how I found out they were [redacted] I think it happened after I came back from RDO that I found out that they were [redacted] and that was a word of mouth through the locker room and everybody's just jabbering away. And since I worked on the floor and people...

Nemeth
Q. Where it happened.

[redacted]
A. Yes.

Nemeth
Q. And the shift that it happened on, right?

[redacted]
A. Yes.

Nemeth
Q. It was pretty prevalent talk, right?

[redacted]
A. Yes, it was.

Nemeth
Q. Okay. And then after this situation comes up, did you have occasion to talk to people that also responded to the event, ahead of you?

[redacted]
A. No one ahead of me, no. Just myself talking with Deputy Christolon and Senior Jackson and maybe, we were, just casual talk with Deputy Howard.

Nemeth
Q. Okay. Anybody respond after you?

[redacted]
A. I can't remember if anybody came in after me. They could have possibly come in, just, you know, just to do a little looky-loo, see what's going on, and then go in their office, but I don't remember any faces or names specifically.

Nemeth
Q. Okay.

[redacted]
A. I, I want to say, no, no one came up, except...

Nemeth
Q. Alright.

[redacted]
A. ...for the medical staff and...

Nemeth
Q. Okay. But you had already learned that some people had, some deputy sheriffs had been there ahead of you, correct?

[redacted]
A. Yes, that was after I had gone and got the Inmate Injury Report to go ahead and start filling it out.

Nemeth
Q. That's when you learned of that?

[redacted]
A. Yeah.

Nemeth
Q. So that night, in other words, correct?

[redacted]
A. Yes.

Nemeth
Q. Okay. Is that reflected in your Inmate Injury Report anywhere? That other deputies had responded prior to your arrival?

[redacted]
A. No.

Nemeth
Q. Okay. Had you ever talked to any of those deputies that responded prior to your arrival?

[redacted]
A. No.

Nemeth
Q. Yourself?

[redacted]
A. No, I have not.

Nemeth
Q. Okay. And have you subsequently learned who they are?

[redacted]
A. No.

Nemeth
Q. Even as you sit here today, you don't know who they are?

[redacted]
A. Not knowingly. I think one name, for some reason or other, comes out as Bloud? He use to work on...

Nemeth
Q. Brode or Broad, remember?

[redacted]
A. Yeah, he used to work on early mornings.

Nemeth
Q. B-R-O-A-D?

[redacted]
A. Yes.

Nemeth
Q. What shift's he on now?

[redacted]
A. I believe he works p.m.'s now, but that name seems to ring a bell for that night.

Nemeth
Q. P.m.'s or days?

[redacted]
A. I think he works p.m.'s.

Nemeth
Q. Okay. And that name...

[redacted]
A. Yeah, yes, he does work p.m.'s. That's (inaudible)...

Nemeth
Q. Broad works p.m.'s, okay. And that name sticks out in your memory?

[redacted]
A. Yes.

Nemeth
Q. What'd you say?

[redacted]
A. Just, it just happens to (inaudible)...

Nemeth
Q. It connects you with that name?

[redacted]
A. ...as far as who was there that night or who was on 9000 that night.

Nemeth
Q. And you don't remember how you heard of that name.

[redacted]
A. No, no. I cannot remember.

Nemeth
Q. Okay. Anyone else?

[redacted]
A. No.

Nemeth
Q. Okay. We know some names already, so it's not like you're giving us new revelations, okay? So I'm just asking for, for what you know.

[redacted]
A. Alright, try to remember. I knew (inaudible), but I just, Broad, you know (inaudible) pertains to Broad.

Nemeth
Q. Okay. So you...

[redacted]
A. (inaudible) one of them?

Nemeth
Q. You learned that Brode or Broad had showed up before you to the same event. Is that...

[redacted]
A. (inaudible).

Nemeth
Q. ...right? But when you got there, he was gone. Is that what you're telling us?

[redacted]
A. Yes.

Nemeth
Q. He, he was nowhere to be seen?

[redacted]
A. No.

Nemeth
Q. You didn't pass him in the hall?

[redacted]
A. No.

Nemeth
Q. Didn't pass him while he was heading back up or going in the elevator or whatever he was doing?

[redacted]
A. See, I think that's where we missed him because we came up the elevator and the escalator's access is right there in front of the control booth, so we could've just totally missed paths altogether.

Nemeth
Q. Okay.

[redacted]
A. And I was pretty much involved in it, trying to get to 44, so I didn't even...

Nemeth
Q. Okay.

[redacted]
A. ...look around.

Nemeth
Q. Alright. So Senior, you were with Senior Jackson. Is that right?

[redacted]
A. Yes.

Nemeth
Q. Okay. What exactly did you do when you hit that module, aside from ask Kluth what happened? What else did you do?

[redacted]
A. I kind of stood around for a few seconds, not knowing what to do as far as what needs to be taken care of, and then I, I think, I think I asked, "Has anybody taken care of the Inmate Injury," and that's when I assumed, okay, well I got the handle on Inmate Injury.

Nemeth
Q. So you designated yourself to handle that?

[redacted]
A. Yes, since I, I am the 4000 prowler and...

Nemeth
Q. Part of your duties.

[redacted]
A. ...(inaudible) take care of it.

Nemeth
Q. Okay. And anything else? Did you do anything else?

[redacted]
A. No, other than when we were down in the clinic, Sergeant Duncan asked me to go and get the camera for this unusual...

Nemeth
Q. To videotape?

[redacted]
A. Yes.

Nemeth
Q. Did you take any still pictures?

[redacted]
A. No, I don't remember taking any stills.

Nemeth
Q. Okay. Remember somebody taking still pictures?

[redacted]
A. No.

Nemeth
Q. Did you video Deputy Kluth?

[redacted]
A. No, I just, I just remember videotaping this individual. I don't remember going upstairs to videotape Kluth or anything in that nature.

Nemeth
Q. Was Kluth injured?

[redacted]
A. He looked pretty red. He was saying something about his neck hurt, but...

Nemeth
Q. Where, where do deputies go when they're injured?

[redacted]
A. They typically go, as far as accidents on the job, they go over to one of the assigned medical facilities. In this case, it would probably be Boyle Heights or White Memorial.

Nemeth
Q. Okay. Do they ever go to the clinic to be checked out?

[redacted]
A. Usually not.

Nemeth
Q. Usually not.

[redacted]
A. The go straight (inaudible) their reputation sometimes...

Nemeth
Q. Okay.

[redacted]
A. ...at the clinic.

Nemeth
Q. Did Kluth receive medical treatment, to you knowledge?

[redacted]
A. I don't remember. No, to my knowledge, I don't remember. And, no, I don't remember (inaudible)...

Nemeth
Q. Okay, to your knowledge, no. Is that right?

[redacted]
A. (inaudible) that's correct.

Nemeth
Q. Okay. Now you said the supervisor told you to get the video camera and operate it. Have you ever received any video training or anything of that nature?

[redacted]
A. Yes, I am currently trained for the extraction team where we're trained to operate weapons as well as video cameras for instances where we have to extract an inmate or inmates.

Nemeth
Q. Okay. And who trained you? The Custody Headquarters training people do that?

[redacted]
A. Yes, they did.

Nemeth
Q. Okay. And do they ever train you to document the injuries to deputy personnel that occurred during cell extractions and other violent confrontations with inmates, so as to document or prove, if necessary, the elements of an assault or things of that nature if that's alleged?

[redacted]
A. No, primarily the videotape in the extraction is used to just videotape the incident. And if circumstances mitigate, the supervisor or the team leader will say, "Okay, I want this videotaped or I want that videotaped." But primarily it's to videotape the inmate being extracted, then the following sequences after it. There's treatment, there's placement in 7100 where they typically go, and then, boom, the videotape's shut off.

Nemeth
Q. Okay. Okay, I understand that that was, would be in a preplanned event or cell extraction. In the case of a use of force, where it's not a preplanned event or hopefully it isn't a preplanned event, the video camera is not called into play until afterwards. Did anybody in this particular case, any supervisors or senior sergeants or anybody, direct you to, to videotape the condition of the involved deputies, their uniform appearance or any injuries they might have had?

[redacted]
A. No.

Nemeth
Q. And you didn't think of that on your own?

[redacted]
A. No.

Nemeth
Q. Okay.

[redacted]
A. It's just basically I handled the camera with the Inmate Injury. I was taking care of two things at once.

Nemeth
Q. Okay. Alright. That's, that was the extent of your involvement in this case. Is that right?

[redacted]
A. Yes.

Nemeth
Q. Okay. How about Deputy Christolon? What did he do on 4400?

[redacted]
A. I don't remember him doing anything either. I would think that he started on his chow release.

Nemeth
Q. He basically got there and looked around and left? Is that what you're telling me?

[redacted]
A. Yes.

Nemeth
Q. Okay.

[redacted]
A. I think he might have went back downstairs and picked up a plate and started chow release. (inaudible)...

Nemeth
Q. Okay.

[redacted]
A. ...everything taken care of and (inaudible) to break up any more of our staff.

Nemeth
Q. Alright. How long was Deputy Christolon in the module?

[redacted]
A. Probably about as long as I was, just to walk, and then when I walked back out to get the Inmate Injury, he might have followed me out at that time. Wasn't there very long.

Nemeth
Q. Okay, can you put a time frame around that?

[redacted]
A. I'd say close to five minutes.

Nemeth
Q. For you and Christolon?

[redacted]
A. Yes.

Nemeth
Q. So you're saying you arrived together and left together?

[redacted]
A. I don't remember him leaving behind me. He might have stayed behind while I ran out to the booth.

Nemeth
Q. Okay, so you, when you decided you were going to process the injury form, you left 4400, went to the 4000 control booth, which is actually a close distance...

[redacted]
A. Yes.

Nemeth
Q. ...got the form and returned to 4400. Is that right?

[redacted]
A. Yes.

Nemeth
Q. And processed that form?

[redacted]
A. Started it, just getting the...

Nemeth
Q. Okay.

[redacted]
A. ...basic name...

Nemeth
Q. Information and stuff.

[redacted]
A. ...booking number.

Nemeth
Q. Okay name, booking number. And after that, did you leave when the inmate was transported on the gurney to the clinic area?

[redacted]
A. Yes, I, I went down with him in the elevator.

Nemeth
Q. Okay. So I guess what I'm asking you, the total time you spent in that module, including the time you went back and forth to the 4000 Floor patrol booth, got the form and returned, is about five minutes. Is that what you're saying?

[redacted]
A. Five minutes for the time, the whole time.

Nemeth
Q. Yes.

[redacted]
A. I don't know if I was in the module for that long. I, I would, yes, I was in there for five minutes.

Nemeth
Q. Okay, alright. And when you came back with Inmate Injury form, was Christolon still there?

[redacted]
A. I don't remember. I think so, yes.

Nemeth
Q. Did he leave before you left with the inmate, or did he leave after the procession with the inmate, right?

[redacted]
A. I think he left after the procession.

Nemeth
Q. Okay.

[redacted]
A. Just basically once they put him on the gurney and started taking him out, everyone leaves.

Nemeth
Q. Okay. Now did you ever look for any witnesses while you were there? That was one of the (inaudible). You, yourself.

[redacted]
A. No, no, not my, myself.

Nemeth
Q. Did anybody direct you to look for any witnesses?

[redacted]
A. No.

Nemeth
Q. Did Deputy Christolon look for any witnesses, that you know of?

[redacted]
A. No.

Nemeth
Q. How about the Senior Deputy, Jackson?

[redacted]
A. I assume that there's a duty, he's obligated, not obligated, but that's one of his duties to, to ascertain deputies...

Nemeth
Q. Okay. Don't assume. I'm asking you, did he look for witnesses, that you know of? (inaudible)...

[redacted]
A. When I left, no.

Nemeth
Q. Okay, nothing you know of that? Is that correct?

[redacted]
A. That's correct.

Nemeth
Q. Might have done it after you left, but you don't know about that. Is that right?

[redacted]
A. Exactly, that's right.

Nemeth
Q. So is it safe to say then, when you were there, did anybody look for witnesses when you were there?

[redacted]
A. No. Yes, it's, no...

Nemeth
Q. Safe to say that...

[redacted]
A. ...safe to say that...

Nemeth
Q. ...that nobody looked for witnesses.

[redacted]

A. ...nobody looked for witnesses.

Nemeth
Q. Okay. Did you see anybody that you thought could have been a witness to this event?

[redacted]
A. I remember someone in the Baker shower dressed in inmate blues, but that's just a glance over.

Nemeth
Q. What did that person look like?

[redacted]
A. I just remember he was in blue clothing.

Nemeth
Q. An inmate obviously.

[redacted]
A. Exactly.

Nemeth
Q. He's locked in the Baker row shower. Is that what you're saying?

[redacted]
A. It was either Baker or down below. I'm pretty sure it was Baker row. Well, lower...

Nemeth
Q. You made a gesture with your hand indicating...

[redacted]
A. ...the lower shower.

Nemeth
Q. The lower area.

[redacted]
A. Yeah.

Nemeth
Q. Baker's the lower shower of, on the right side of the module as you're facing in. Is that correct?

[redacted]
A. Yes.

Nemeth

Q. And did you see exactly where that inmate was in the B row shower?

Furuyama
A. No.

Nemeth
Q. You just remember him being there.

[redacted]
A. I just remember a figure in there.

Nemeth
Q. Do you remember the race of that individual? Obviously a male, correct?

[redacted]
A. Yes, obviously a male, right. I don't remember the race.

Nemeth
Q. Okay. Do you know, was he locked in that shower?

[redacted]
A. I would assume because of, at that time of night, that individuals are locked down, so one way or another a gate should have been closed on him. He was blocked off of the row onto the sally port where those gates are closed, so I would think he was locked down in the shower.

Nemeth
Q. Okay. And I think I'm, what you were saying, is it normal to have inmates in the shower at 12:30 a.m.?

[redacted]
A. Possibly, yes, because we bring inmates in periodically through the night for all the modules, either to be housed as fish or being housed from fish status into the module. So, we customarily stick them in the showers in order to bath them depending on what's open and how quickly they're going to be placed into the shower, I mean cells.

Nemeth
Q. Okay. And by fish, you're talking about a newly processed inmate, just classified, just recently classified, or not yet classified.

[redacted]
A. Yes. Those showers can also be used for transfers, maybe individuals going to prison or maybe a different part of the jail.

Nemeth

Q. Okay.

[redacted]
A. And they serve a (inaudible)...

Nemeth
Q. Okay. Is there any other purpose the shower serves at 12:30 in the morning, that you know of?

[redacted]
A. No.

Nemeth
Q. How about an inmate that, that wandered out of his cell when his gate opened and he shouldn't have come out and then he didn't listen and didn't go back in when he was supposed to?

[redacted]
A. That could be...

Nemeth
Q. Is it common practice that an inmate be put in a shower as a, kind of penalty box, holding area for awhile?

[redacted]
A. It, it's not common practice, but that, that has been used for that particular instance.

Nemeth
Q. Well, it was used for that when I worked here, years and years ago so...

[redacted]
A. Yeah, well see, when I started here...

Nemeth
Q. Hasn't changed much, right?

[redacted]
A. When I started here, yeah, it was fine to stick him in for your shift as long as you monitored him, but depending on, you know, circumstances of late, well it's accepted and then, no, it's not, you better get him back in his cell.

Nemeth
Q. Okay.

[redacted]
A. And I think the primary standing right now is that it shouldn't be done, so...

Nemeth
Q. Okay. Do you know why that man was in the shower?

[redacted]
A. No, sir.

Nemeth
Q. You have no idea, do you?

[redacted]
A. No.

Nemeth
Q. Okay. Now, I think we've already established through just a recap that nobody, not the group you came with, Jackson, yourself, or Christolon, nor any of the four that were there, [redacted] [redacted] Sloan, or Kluth, made any attempt to look for witnesses that you're aware of. Is that right?

[redacted]
A. That's right.

Nemeth
Q. Including the man that was in the shower that we just talked about. Nodded you head.

[redacted]
A. (Inaudible) right, yes.

Nemeth
Q. Okay. And is shower, can you give me an approximation of where you saw the inmate's head to that, that, the bars of that shower? The distance between the inmate's head and that shower area.

[redacted]
A. The inmate's head, meaning the injured inmate or...

Nemeth
Q. Yeah, the, I'm sorry. The injured inmate, the in, inmate who's hobbled and handcuffed laying on his side...

[redacted]
A. Okay. He...

Nemeth
Q. ...what's the distance from him, let's use his, top of his head as a, as a point of reference to the, to the bars of that Baker row shower.

[redacted]

A. Okay. To the bars, he was probably less than 5 feet from the bars of the shower.

Nemeth
Q. Top of his head?

[redacted]
A. Yes.

Nemeth
Q. What was the closest part of his body towards the shower?

[redacted]
A. I think it was his head because he was kind of angled toward the mop room, so...

Nemeth
Q. Okay.

[redacted]
A. ...that would make sense with his head (inaudible)...

Nemeth
Q. Alright, let's use the mop room door as a point of reference. How far was his head from the mop room door?

[redacted]
A. Probably less than, less than four feet.

Nemeth
Q. You know what the distance is from the mop room door to the bars of the Baker row shower?

[redacted]
A. I do not know off-hand. I would say less than four feet.

Nemeth
Q. Less than four feet, okay. So was his head beyond where the beginning of the doorway is to that mop room, or was it between the beginning...

[redacted]
A. I, I would think...

Nemeth
Q. ...of the doorway?

[redacted]
A. I would think he, between...

Nemeth

Q. Between.

[redacted]
A. As far as the doorway itself, I would say he'd be right smack in the middle of the doorway.

Nemeth
Q. His head would be smack in the middle of the doorway area?

[redacted]
A. Yes, as far as the distance from that to the...

Nemeth
Q. Okay. And your approximating that to be about 4 feet or so from the, from the shower are there?

[redacted]
A. Yes.

Nemeth
Q. Okay. And that's when you, that's the position he was in when you saw.

[redacted]
A. Yes.

Nemeth
Q. Okay, now on, on that night when you arrived, what was lighting like in that module?

[redacted]
A. Row lights were off. Sally port light was on. The control booth light was on, the security booth. And along with the row lights being off, the showers were off and the day room were off also.

Nemeth
Q. Okay. Was that a normal night light condition for that hour?

[redacted]
A. Yes, it is.

Nemeth
Q. Okay.

[redacted]
A. The cells have accompanied cell lighting, real small tubes and that so...

Nemeth

Q. Right. Okay.

[redacted]
A. (inaudible) from that.

Nemeth
Q. Okay. If you were to describe the lighting conditions of the sally port area, where you saw the inmate, okay, and you were to use terminology like, you know, dim, moderate, bright, whatever, your own words, something along those lines, how would you describe the lighting?

[redacted]
A. I would describe that with, what you just mentioned, moderate. Something like that.

Nemeth
Q. Moderate.

[redacted]
A. There are other, in that particular sally port area, there are lights and it doesn't offer the best...

Nemeth
Q. Okay.

[redacted]
A. (inaudible).

Nemeth
Q. But you're choosing the word "moderate" as opposed to "dim," correct?

[redacted]
A. That's correct.

Nemeth
Q. So it's something more than dim. Is that right?

[redacted]
A. Yes.

Nemeth
Q. Okay. It's bright enough to see. Is that right?

[redacted]
A. Oh, yes.

Nemeth
Q. Okay. You're familiar with the module layout there in 4400?

[redacted]
A.   Yes.

Nemeth
Q.   Are you familiar with the Denver row, which would be the upper tier row of Module 4400?

[redacted]
A.   Yes.

Nemeth
Q.   Have you conducted searches there and things of that nature down those rows?

[redacted]
A.   Yes, I have.

Nemeth
Q.   Okay. If you were at the end, the far end of the Denver row by, let's say cells, what's the last cell up there, 13?

[redacted]
A.   It'll either be 12 or 13. I'm not sure off-hand, but there's a, they stagger them. One side is...

Nemeth
Q.   Right.

[redacted]
A.   ...12, one side is 13.

Nemeth
Q.   Okay. Assuming the last cell, whether it's 12 or 13, on the Baker row side and you were standing up there, would you be able to see the area where this inmate was?

[redacted]
A.   From the row itself, or from...

Nemeth
Q.   Yeah. From the, from the D row, at the end...

[redacted]
A.   The D row.

Nemeth
Q.   ...the far end of the module.

[redacted]
A.   If you were at D row, you cannot see the inmate. He's, you got steps that lead down into the sally port area, so...

Nemeth
Q. Okay.

[redacted]
A. ...you wouldn't see it.

Nemeth
Q. Okay.

[redacted]
A. You'd probably see like a portion of the fire box, if the fire box is even on that side.

Nemeth
Q. Okay. Alright, now under those lighting conditions that you described, would you be able to see the fire box?

[redacted]
A. If the fire box is on that side of the module, yes, you...

Nemeth
Q. Which it is.

[redacted]
A. Okay. Then you should be able to. It's marked in pretty bright red. And I have walked the rows at night (inaudible) kind of get accustomed to what you can and can't see.

Nemeth
Q. Uh-huh, okay. But you're saying you wouldn't be able to see the inmate when he's laying down on the floor. Is that right?

[redacted]
A. Because of the steps that are there. (inaudible) view.

Nemeth
Q. Okay. Could you see somebody up there, standing up? Even that area?

[redacted]
A. Normally catch their shoulder, probably just a little bit lower than the shoulder, up.

Nemeth
Q. Okay, you're motioning, well 2 inches above, maybe 3, 4 inches above your elbow and up.

[redacted]
A. Yes.

Nemeth

Q. So, the upper chest area? Is that...

[redacted]
A. Yes.

Nemeth
Q. ...safe to say? Okay, now let's say, have you ever been inside the cells on Baker row?

[redacted]
A. Yes, I have.

Nemeth
Q. And have you ever been inside a cell on Baker row when the gates are closed?

[redacted]
A. No.

Nemeth
Q. Okay. Do you know what the view is from the interior of cell B4 on Baker row with the gate closed, towards that area?

[redacted]
A. I have during searches kind of viewed that way, but the gate wasn't closed.

Nemeth
Q. Okay. What's the view?

[redacted]
A. You could see the officer's security booth, as far as where the computer and all that's located, the gate controls...

Nemeth
Q. Uh-huh.

[redacted]
A. ...stuff like that. You can see the sally port area questionably. You can almost see the front door probably from there, just a...

Nemeth
Q. Would you be able to see the inmate in this incident, where he was positioned?

[redacted]
A. I don't think you would because the Denver rows, rows stairs would get in the way. And just because there's, I think there's two pillars right there in front of the shower...

Nemeth
Q. Okay.

[redacted]
A. ...and that would've prevented the view also. You might be able to catch his feet, that's about it.

Nemeth
Q. Okay. Would you be able to see a person standing up in that area?

[redacted]
A. Yes, you can.

Nemeth
Q. Okay. Did Deputy Christolon write anything as far as you know regarding this incident?

[redacted]
A. No.

Nemeth
Q. How about Senior Jackson?

[redacted]
A. No.

Nemeth
Q. That you know of. This is just to your knowledge.

[redacted]
A. That I know of, no.

Nemeth
Q. Alright. Now, let me get back to something here. You said earlier that you learned later, from talking to Deputy Howard, that Deputy Broad and others had responded there to module 4400 to this incident prior to your arrival and had left prior to your arrival. Is that correct?

[redacted]
A. Yes.

Nemeth
Q. Do you know how long they, they had been there?

[redacted]
A. She said they walked in and walked out.

Nemeth

Q. That's what you're saying Deputy Howard, she, that's who you're referring to...

[redacted]
A. Yes.

Nemeth
Q. ...when you said "she"? They walked in and turned around immediately, or do you know how much time was involved?

[redacted]
A. I do not know how much time.

Nemeth
Q. Okay.

[redacted]
A. I'm assuming walked in and walked out, so probably less than a minute.

Nemeth
Q. Okay. And this is something that Deputy Howard told you.

[redacted]
A. Yes.

Nemeth
Q. Are you still partners with Howard?

[redacted]
A. Yes, I am. However...

Nemeth
Q. Are you friends with her?

[redacted]
A. Yes.

Nemeth
Q. Have you talked about this case with her?

[redacted]
A. No.

Nemeth
Q. Not at all?

[redacted]
A. No.

Nemeth
Q. Other than what you're telling us now?

[redacted]
A. Yes, which, we usually don't talk most things in there, you know. We're both avid four-wheel drivers, so we go up on a lot of trips and work is not one of the things we talk about.

Nemeth
Q. Is she working tonight?

[redacted]
A. No, she's not.

Nemeth
Q. How about...

[redacted]
A. Christolon?

Nemeth
Q. ...Christolon?

[redacted]
A. Yes, Christolon's here tonight.

Nemeth
Q. Okay. Alright. I have to ask a couple more things real briefly. After you, you accompanied the inmate to the hospital, correct? Or clinic, and you videotaped him in the Central Jail Clinic here. Is that right?

[redacted]
A. Yes.

Nemeth
Q. Okay, do you know what happened to him after that?

[redacted]
A. He went over to LCMC.

Nemeth
Q. He was transported there?

[redacted]
A. Yes.

Nemeth
Q. Okay. And was...

[redacted]
A. It was by ambulance also.

Nemeth
Q. Okay. And was he escorted by deputies?

[redacted]
A. Yes, to my knowledge he was and that would be...

Nemeth
Q. Do you know who?

[redacted]
A. No, just the hospital (inaudible) that he's...

Nemeth
Q. Okay. We know it's indicated in memorandums, but skip that. Now were you continuously present with the inmate from the time you arrived there to the module and started filling out, he went, left, got the Inmate Injury forms, started filling it out, then accompanied him, the inmate...

[redacted]
A. (inaudible).

Nemeth
Q. ...with the procession of individuals to the clinic and then were you with when he got put into the ambulance?

[redacted]
A. No, I don't remember him going into the ambulance. I think...

Nemeth
Q. You got...

[redacted]
A. ...I left prior to that.

Nemeth
Q. Okay, you parted ways at the clinic then?

[redacted]
A. Yes. And...

Nemeth
Q. Did some other deputies escort him to the ambulance and ride with him in the ambulance?

[redacted]
A. Yes.

Nemeth
Q. Okay.

[redacted]
A. That would be the hospital deputies.

Nemeth
Q. Okay. Did anybody assault [redacted] while he was in your company?

[redacted]
A. No.

Nemeth
Q. Did anybody touch his testicles while he was in your company?

[redacted]
A. No.

Nemeth
Q. So there's no way anybody injured him while you were with him...

[redacted]
A. That's correct.

Nemeth
Q. ...that night. Is that right?

[redacted]
A. That's correct.

Nemeth
Q. Okay. The other thing I wanted to ask you is, you learned from Howard that night, is that correct, about this, about Broad being there and some others?

[redacted]
A. Yes.

Nemeth
Q. Okay. And then you later learned that, after you came back from some [redacted] or something that the four deputies involved have been [redacted] correct?

[redacted]
A. Yes, uh-huh.

Nemeth
Q. From...

[redacted]
A. Yes.

Nemeth
Q. From locker room talk, that type of thing?

[redacted]
A. Yes. And then obviously when I came up on the floor, they all (inaudible)...

Nemeth
Q. And you made a...

[redacted]
A. ...deal.

Nemeth
Q. You made a connection at that point that, at the very least, there's something that the Sheriff's Department has conducted some type of investigation to cause these individuals to be [redacted], right?

[redacted]
A. Yes.

Nemeth
Q. Did you report to any supervisors at that point that you had learned that Broad and others had been present there also, at that module that night?

[redacted]
A. No.

Nemeth
Q. Why not?

[redacted]
A. I felt that it wasn't necessary.

Nemeth
Q. And why'd you feel that?

[redacted]
A. Because at that time, I felt that they arrived after the situation and they didn't have any part in the actual force memo, so probably just left it at the guys with myself and I didn't have to report any names.

Nemeth
Q. Okay, do you think that's, that's your position and if, that's, within your authority to make that determination?

[redacted]
A. No, it's not.

Nemeth
Q. You realize that now?

[redacted]
A. Yes, I do.

Nemeth
Q. Were this to happen again, you...

[redacted]
A. I would report it.

Nemeth
Q. ...wouldn't do that again, would you?

[redacted]
A. Definitely, I would report it.

Nemeth
Q. And have you ever talked to Brode or Broad about this incident?

[redacted]
A. No.

Nemeth
Q. Never?

[redacted]
A. No.

Nemeth
Q. Even after you learned he was there, you never asked him anything about it?

[redacted]
A. No, I never questioned Broad.

Nemeth
Q. How about Howard?

[redacted]
A. No. About Broad?

Nemeth
Q. Yes.

[redacted]

A. No.

Nemeth
Q. Okay, Gjendem? Turn it over to my partner here.

Gjendem
Q. Yes, alrighty, a few quick questions here. When [redacted] told you on the videotape that he was injured by gang members, did you know that that was untrue, at that time?

[redacted]
A. No. Well, I knew it was untrue, because he said it happened on the row and that a deputy, or he said it happened in his cell and a deputy pulled him out. If there's a confrontation going on with inmates, I know the deputy single-handedly would not enter his cell. He would call for back up. Well, that's what I would think they would do, but and plus, judging that I've worked on the mental ops for a period of time already, I kind of came to the conclusion, one-sided conclusion, that the guy was (inaudible) and was a mental observation patient, just with his blabbing, blabbing.

Gjendem
Q. Well, in addition to that, didn't Kluth tell you that he'd been in a fight with the inmate?

[redacted]
A. Yes.

Gjendem
Q. So you knew that videotape, that the information he'd given, the videotape, was probably untrue.

[redacted]
A. Oh, yeah, uh-huh.

Gjendem
Q. Okay. So, when did you learn that he was being untruthful? During the videotaping?

[redacted]
A. No, on my entering the cell at the sally port area. He was babbling on and on that he'd got beaten up by gang members and a deputy rescued me and, judging how Deputy Kluth returned, it like, "Well, I don't know about that, I think he got into a fight with Deputy Kluth, and now he's just jabbering away."

Gjendem
Q. Okay. Do you carry any radio?

[redacted]

A. Yes, I do. Not tonight.

Gjendem
Q. Not tonight.

[redacted]
A. B/O.

Gjendem
Q. You generally carry a radio?

[redacted]
A. Yes, I do.

Gjendem
Q. I asked (inaudible) and he answered. When you went upstairs with Christolon and Senior Jackson, what did Senior Jackson do?

[redacted]
A. I, he walked into the security booth.

Gjendem
Q. Okay.

[redacted]
A. To talk with the deputies, or the deputy, that would be Sloan and then I think Kluth walked in behind him and they started talking. I never actually entered inside the security area.

Gjendem
Q. You never went inside the actual security area, the officer's booth down in 4400?

[redacted]
A. (inaudible).

Gjendem
Q. You don't remember passing anybody in the hallway down through 4th Floor?

[redacted]
A. No. Trustees in the mop room. If, if, if I did pass anybody, they would be sitting in the mop room.

Gjendem
Q. Don't remember seeing any, any of the 7000 deputies or...

[redacted]
A. No.

Gjendem
Q. How did you get into the module?

[redacted]
A. The door was already open. I just opened it and walked in, just kind of jogged in.

Gjendem
Q. Okay, who was the first one in?

[redacted]
A. I think it was the senior.

Gjendem
Q. Senior Jackson would have been...(END OF TAPE 1).

Nemeth
Q. Okay, we're back on tape. This Tape 2 of the Deputy [redacted] interview, case number 008383, Sergeant Gjendem questioning him.

Gjendem
Q. Yes, getting back to Senior Jackson, you say he was inside the actual officer's booth there talking to Deputy Sloan and you said, did you see Kluth walk inside there?

[redacted]
A. Yes.

Gjendem
Q. Okay. You say you never went inside?

[redacted]
A. That's correct.

Gjendem
Q. Did you hear what they were talking about?

[redacted]
A. No, I didn't.

Gjendem
Q. Do you know what they were talking about?

[redacted]
A. I'm assuming about the incident that had just occurred.

Gjendem
Q. Okay. You described the condition of Kluth a little while ago as having a reddened face and everything.

[redacted]

A. Yes.

Gjendem
Q. And that you had a conversation with him...

[redacted]
A. Yes.

Gjendem
Q. ...that the inmate had...

[redacted]
A. Choke hold.

Gjendem
Q. ...had him around the neck. What about Sloan? What was the condition of Sloan?

[redacted]
A. He, he was just standing there inside the, (inaudible), didn't look like he, you know, was flustered in any sense or that he, that he was active. It kind of looked like he was...

Gjendem
Q. Uh-huh.

[redacted]
A. ...just standing there waiting as, as a relief. The booth, somebody has to stay in that control booth at the time.

Gjendem
Q. What about [redacted] What was his condition? You say, saw him out there in the sally port area.

[redacted]
A. [redacted] was puffing and not puffing to the point like [redacted] but it, it had looked like he had just gotten involved, like maybe ran in there or something, but he was, he was breathing a little bit heavy.

Gjendem
Q. You knew [redacted] was involved in that fight. Is that right?

[redacted]
A. Assuming that what had just happened, yeah, because he was standing right there.

Gjendem
Q. He, he didn't tell you or he tell you that he had been involved in the fight, in, in assisting Kluth?

Furuyama
A. He said that he came down to assist.

Gjendem
Q. And help Kluth out?

[redacted]
A. Yes.

Gjendem
Q. And what did he tell you when told you that he helped Kluth out?

[redacted]
A. He just said that he was here at the time because, well I was trying to assess what had happened, find out what I needed to do. He just said, "I was down here with Kluth and [redacted] when this happened." Actually "I ran down there with Kluth and [redacted] Excuse me, "I ran down here with [redacted] and saw Kluth."

Gjendem
Q. Okay. And what did he say he did to help Kluth?

[redacted]
A. He said he helped to grab the inmate.

Gjendem
Q. Helped to grab the inmate?

[redacted]
A. Uh-huh.

Gjendem
Q. I'd have gone that far? What did he say, where did he say he grabbed him in there?

[redacted]
A. I don't remember.

Gjendem
Q. Could he have told you and you forgot?

[redacted]
A. Yeah, he could've.

Gjendem
Q. Okay, what about [redacted] What was his condition?

[redacted]

A. He was also puffing, not as heavily as Kluth, but he was puffing like [redacted] again they looked like they had just ran down there.

Gjendem
Q. They had run down there?

[redacted]
A. Run down there or get involved in the altercation.

Gjendem
Q. Okay. And what did [redacted] tell you that he had done?

[redacted]
A. I never questioned [redacted] I never asked him

Gjendem
Q. Because you're not that close to him?

[redacted]
A. No, because he never works p.m.'s. Kind of hang out with the guys on the shift.

Gjendem
Q. And you never went inside the booth to talk to Sloan?

[redacted]
A. No.

Gjendem
Q. [redacted] told you he helped out Kluth to get out this, to get away from this inmate?

[redacted]
A. Yes.

Gjendem
Q. And he didn't tell you what he did or what he was...

[redacted]
A. No.

Gjendem
Q. He grabbed the inmate.

[redacted]
A. He grabbed him.

Gjendem
Q. Did he say where?

[redacted]
A. No.

Gjendem
Q. Who was the 4000 sergeant that night?

[redacted]
A. He worked our training for a little while.

Gjendem
Q. When we say his name, will you know it?

[redacted]
A. Yes, I would definitely know it?

Gjendem
Q. Mosley?

[redacted]
A. Yes, that's him.

Gjendem
Q. Okay. At what point did you see him at the scene?

[redacted]
A. Just prior to, or, yeah, just prior to the inmate's transfer down toward the clinic while we still bustling around in the module, Mosely made his appearance.

Gjendem
Q. Okay. Were you in the module the entire time the senior was in there?

[redacted]
A. No, I had left to go get an Inmate Injury Report.

Gjendem
Q. Then you came back.

[redacted]
A. Yes, but not during the entire time.

Gjendem
Q. When you say, to say, you were, you were in the module, whenever the senior was in the module, you were there most of that time. Is that correct?

[redacted]
A. Yeah, that could be correct.

Gjendem
Q. Because you left with the inmate, correct?

[redacted]
A. Yes.

Gjendem
Q. Downstairs?

[redacted]
A. Uh-huh.

Gjendem
Q. Did you ever hear the senior say, "Shut up, asshole"?

[redacted]
A. No.

Gjendem
Q. To the inmate?

[redacted]
A. No.

Gjendem
Q. Is there a time where it was possible that the senior said that and you weren't present?

[redacted]
A. Could have been, if I'd walked out. Yes.

Gjendem
Q. Were you there the entire time the sergeant was there?

[redacted]
A. Yes.

Gjendem
Q. When you went downstairs with the inmate on a gurney, did the sergeant go with you? Sergeant Mosely.

[redacted]
A. No. I don't remember the sergeant accompanying us in the elevator.

Gjendem
Q. Okay. Did you ever hear the sergeant say, "Shut up, asshole"?

[redacted]
A. No.

Gjendem
Q. To the inmate?

[redacted]
A. No.

Gjendem
Q. Inmate [redacted] Getting back to this report right here, Inmate Injury Report. I think the first line says here, "Inmate [redacted] was involved in an altercation with deputy personnel," and you say, "refer to attached Use of Force packet." Did you ever mention the deputies' names that were involved in the use of force...

[redacted]
A. No.

Gjendem
Q. ...upon inmate [redacted] on this form?

[redacted]
A. No, I did not.

Gjendem
Q. Okay. Did you, did you get this report approved before the end of your shift?

[redacted]
A. Yes, I did.

Gjendem
Q. And do you know who approved this report?

[redacted]
A. No, I don't, not off-hand.

Gjendem
Q. You don't remember?

[redacted]
A. No. (inaudible).

Gjendem
Q. Show it to the, do who's signature that is for the watch sergeant there?

[redacted]
A. Looks like it's Mosely, Van Mosely.

Gjendem
Q. Sergeant Van Mosely?

[redacted]
A. Yes.

Gjendem
Q. On the back of this form here, the very part, last part of information here, what, what does it ask for?

[redacted]
A. Witness information.

Gjendem
Q. And is there anything filled in on that form?

[redacted]
A. No, there's not.

Gjendem
Q. Can you tell me why there's nothing filled in on that form?

[redacted]
A. I turned it in, two of the deputies that were writing Inmate Injury, not the Inmate Injury, but the Use of Force, and I figured, since they were handling their narrative and if there were any witnesses present, they would forward it to any of the witnesses.

Gjendem
Q. So you were relying on somebody else to fill in this information on the report that you were responsible for.

[redacted]
A. Yes.

Gjendem
Q. So, you didn't look for any witnesses.

[redacted]
A. No, I didn't.

Gjendem
Q. Do you know if anybody looked for any witnesses?

[redacted]
A. No, I do not know.

Gjendem
Q. When you were working 44 Prowl, 4000 Prowl, Lieutenant Manning's floor, where were you in relation to seniority with Kluth and [redacted] [redacted] and Sloan?

[redacted]
A. As far as class-wise?

Gjendem
Q. No, as, yeah, department-wise?

[redacted]
A. Department-wise, I came out several classes before all of them.

Gjendem
Q. Before all of them?

[redacted]
A. Yes.

Gjendem
Q. So you were kind of senior to all four of them?

[redacted]
A. Yes.

Gjendem
Q. So, if I take it right, you were up there in the module. You left and went and got the Inmate Injury Report. Did somebody instruct you to do the Inmate Injury Report, or did you just take it upon yourself?

[redacted]
A. I, I usually take it upon myself, only because that's something that's necessary and needs to be done and being that we always, the (inaudible) always take it, might as well get it out of the way and do it and scratch it off.

Gjendem
Q. Okay. And who made the decision between you and Christolon to do that?

[redacted]
A. I don't there was really any decisions made. It was just, I'll do it, whether or not I write, you take it this time or (inaudible).

Gjendem
Q. Okay. And you got the form and you came back to the module.

[redacted]
A. Module.

Gjendem
Q. Was the gurney there when you got back?

[redacted]
A. I don't remember the gurney being there at that time, no.

Gjendem
Q. Did the gurney arrive later?

[redacted]
A. Yes.

Gjendem
Q. Okay. Who came up with gurney?

[redacted]
A. I don't remember the deputy.

Gjendem
Q. Was there a nurse?

[redacted]
A. There could've been.

Gjendem
Q. Would a, would a gurney generally come to a module without a nurse?

[redacted]
A. Sometimes there's a required, so we can call her up on the telephone and ask for just a gurney, but generally the nurses do accompany the gurney (inaudible) man down calls.

Gjendem
Q. Uh-huh. And you got a inmate that's been injured.

[redacted]
A. Yes.

Gjendem
Q. The (inaudible).

[redacted]
A. Yes.

Gjendem
Q. You don't remember a nurse being there?

[redacted]
A. I would assume, yes, there was a nurse there.

Gjendem
Q. But do you remember a nurse being there?

[redacted]
A. No, I don't remember a nurse being there.

Gjendem
Q. Okay. Do you remember the watch commander ever coming up to the, to the module?

[redacted]
A. Not while I was there, no.

Gjendem
Q. Do you know who the watch commander was?

[redacted]
A. No, I don't. I'm sure, I'm pretty sure Sergeant Duncan was the watch sergeant. He could've been acting watch commander, but I'm pretty sure he was the watch sergeant for the night.

Gjendem
Q. Do you remember seeing Duncan at the clinic or somewhere?

[redacted]
A. Yeah, he came, he came running out of the gym and he came running down the ramp so I distinctly remember him being there.

Gjendem
Q. How do you remember Sergeant Duncan, how do you know Sergeant Duncan came from the gym?

[redacted]
A. He was still in his PT gear, T-shirt and shorts and he had his visitors, not visitors pass, but a pass from main control to run down there.

Gjendem
Q. Okay. Okay. You never made any notice of the videotape on your Inmate Injury Report, did you?

[redacted]
A. No, I didn't.

Gjendem
Q. Being taken of the inmate. That was primarily just to show his injuries, correct? That videotape?

[redacted]
A. Yes, it was...

Gjendem
Q. And his state of mind?

[redacted]
A. ...Sergeant Duncan's decision.

Gjendem
Q. There's not mention of it on here.

[redacted]
A. No.

Gjendem
Q. Did Sergeant Van Mosely ever interview you?

[redacted]
A. I don't remember him interviewing me.

Gjendem
Q. Did you see Sergeant Mosely interview Kluth?

[redacted]
A. No, I didn't see (inaudible) in any report.

Gjendem
Q. [redacted] That's, no?

[redacted]
A. No.

Gjendem
Q. And Sloan?

[redacted]
A. No.

Gjendem
Q. And [redacted].

[redacted]
A. No.

Gjendem
Q. Okay. Did Jackson go with you to the clinic?

[redacted]
A. No, he didn't.

Gjendem
Q. Go, if I understand this right, Jackson and Mosely stayed inside the dorm.

[redacted]
A. (inaudible) security area.

Gjendem

Q. Security area, with the four deputies.

[redacted]
A. Yes.

Gjendem
Q. [redacted] [redacted] Sloan, and Kluth.

[redacted]
A. Yes.

Gjendem
Q. When you left with the gurney and went and whoever was there.

[redacted]
A. Yes.

Gjendem
Q. Did you ever go back to the module after that?

[redacted]
A. I, no, I don't remember going back there for the remainder of the night.

Nemeth
Q. Just a couple recap, follow-up questions real quickly. Now I'm going to paraphrase you, okay?

[redacted]
A. Okay.

Nemeth
Q. And I'm not trying to put words in your mouth. The idea is to make sure I have a good mental picture or memory of what you said. Now we do have the tape of course and it will be transcribed in a verbatim fashion so we'll know exactly what you said in writing, but at this point I want to reconfirm these points with you, okay?

[redacted]
A. Yes.

Nemeth
Q. When you got to the module, you saw Kluth red around the neck and breathing heavily as if he'd just been involved in a physical altercation. Is that right?

[redacted]
A. Yes.

Nemeth

Q. Okay. And did you notice anything else about his appearance or anything that would indicate to you that he had been injured or anything?

[redacted]
A. Not that he was injured, no.

Nemeth
Q. Okay. Did Kluth tell you that he had been in a fight with the inmate?

[redacted]
A. Yes.

Nemeth
Q. Did Kluth tell you exactly what force he used on the inmate?

[redacted]
A. No, he did not.

Nemeth
Q. Did he, did he describe anything of the force he used on the inmate to you?

[redacted]
A. No, he did not.

Nemeth
Q. Deputy [redacted] you described his as huffing and puffing as if he had just run down the hallway to the module. Is that right?

[redacted]
A. Yes.

Nemeth
Q. Did you see his uniform in disarray or anything?

[redacted]
A. No.

Nemeth
Q. Did, did you see any injuries on him?

[redacted]
A. No.

Nemeth
Q. And did [redacted] complain to you of pain or anything, of being injured?

[redacted]

A. No.

Nemeth
Q. Okay. Did [redacted] tell you he used force on the inmate?

[redacted]
A. No, he did not.

Nemeth
Q. Did he tell you that he assisted in restraining the inmate?

[redacted]
A. No.

Nemeth
Q. Do you have any idea what force he used on the inmate, if any?

[redacted]
A. No, I do not.

Nemeth
Q. Same for [redacted] Did you said you saw [redacted] breathing hard as if he just run in. Is that correct?

[redacted]
A. Yes.

Nemeth
Q. Did you notice his uniform being out of place, damaged, soiled, or anything?

[redacted]
A. Just a little out of place.

Nemeth
Q. Okay, and describe that.

[redacted]
A. Just a, shirt's a little ruffled.

Nemeth
Q. Shirt's a little ruffled, okay. Were his pants torn or anything?

[redacted]
A. No.

Nemeth
Q. Was his shirt pulled out, out of his pants, untucked?

[redacted]

A. No.

Nemeth
Q. When you say shirt ruffled, what does that mean?

[redacted]
A. It wasn't neatly tucked.

Nemeth
Q. Wasn't neatly, fully neatly, you know, sharp...

[redacted]
A. (inaudible).

Nemeth
Q. ...sharp dress uniform tucked in?

[redacted]
A. Exactly, yes.

Nemeth
Q. But it wasn't damaged or soiled?

[redacted]
A. No.

Nemeth
Q. Or torn?

[redacted]
A. No.

Nemeth
Q. Was he obviously injured?

[redacted]
A. No.

Nemeth
Q. Did he complain of injury?

[redacted]
A. No.

Nemeth
Q. Do you know what force he used on the inmate?

[redacted]
A. Holding, that he held [redacted]

Nemeth

Q. Said he had held inmate [redacted] Did he say where?

[redacted]
A. No.

Nemeth
Q. So didn't say, identify what part of [redacted] body or what parts he held?

[redacted]
A. No.

Nemeth
Q. Did he describe anything else that he did to inmate [redacted]

[redacted]
A. No.

Nemeth
Q. Did you see him do anything to inmate [redacted]

[redacted]
A. No.

Nemeth
Q. Deputy Sloan, now you said, you described him as being calm and inside the 4400 module officer's area, security area. Is that right?

[redacted]
A. Yes, that's right.

Nemeth
Q. Okay, and you said he was not breathing hard. Is that right?

[redacted]
A. That's right.

Nemeth
Q. He appeared calm.

[redacted]
A. Yes.

Nemeth
Q. Did he tell you he had been involved assisting restraining the inmate or any use of force on the inmate?

[redacted]
A. No, he did not.

Nemeth
Q. Do you know if he was involved in restraining or using force on the inmate?

[redacted]
A. No.

Nemeth
Q. Was his uniform out of place?

[redacted]
A. No.

Nemeth
Q. Did you see any signs of injury to Deputy Sloan?

[redacted]
A. No.

Nemeth
Q. Did Deputy Sloan comment that he was injured?

[redacted]
A. No, he did not.

Nemeth
Q. Did any of the deputies, Kluth, Sloan, Sch, [redacted] or, or [redacted] state that the inmate punched them or did anything to them?

[redacted]
A. Just Kluth.

Nemeth
Q. And Klu, and that was...

[redacted]
A. (inaudible)

Nemeth
Q. ...the choking or, or whatever, had his arm, had him in some kind of control hold or something.

[redacted]
A. Yes.

Nemeth
Q. That's it?

[redacted]
A. That's it.

Nemeth
Q. So the only one that said the inmate did anything to him is Kluth. Is that right?

[redacted]
A. That's right.

Nemeth
Q. And the only thing Kluth said the inmate did to him was get him in some kind of headlock or choke hold or something. Is that right?

[redacted]
A. Yes, that's right.

Nemeth
Q. Okay. Did you see anybody use force on the inmate?

[redacted]
A. No, I did not.

Nemeth
Q. Did you, yourself, use force on the inmate?

[redacted]
A. No, I did not.

Nemeth
Q. Okay. And as far as Broad goes, do you have any idea what Brode's role, Broad, Brode, whatever it is, what his role was in this event?

[redacted]
A. No, other than he was possibly a respondent to the incident.

Nemeth
Q. Well it's not possibly, you say...

[redacted]
A. Well, yes...

Nemeth
Q. ...that somebody told you he responded...

[redacted]
A. ...but, but (inaudible)...

Nemeth

Q. ...right?

[redacted]
A. ...did.

Nemeth
Q. You didn't see him though, right?

[redacted]
A. No, I didn't.

Nemeth
Q. This is just information you heard from Deputy Howard.

[redacted]
A. Yes.

Nemeth
Q. Okay. That's all I have. Sergeant Gjendem wants to look up something.

[redacted]
A. Okay.

Gjendem
Q. Oh, I got a question here for you.

[redacted]
A. Sure.

Gjendem
Q. During your last interview, you made a statement that you had a conversation with [redacted] in the locker room the day after the incident. Do you recall that?

[redacted]
A. No, I don't.

Gjendem
Q. Well if I could just refresh your mind right here, it says, "[redacted] I really did, I didn't really see them for the rest of the night because they were busy writing the Use of Force packet and with myself doing chow release and...." Then Sergeant Hamilton asked you, "How about the following day?" And you answered, "I talked to [redacted] in the locker room because he sits, he dresses right in back of me and he's, and he just said that the guy was a total wacko and he came running in, that he had Kluth in a head lock and so, and he was talking about something to the effect that he was holding onto the legs to keep him from kicking." Do you remember making that statement?

[redacted]
A. I remember, now that you mention it, that he was holding on a leg, so...

Gjendem
Q. A little while ago, you said, I think you said that...

[redacted]
A. Yeah, I...

Gjendem
Q. ...he hadn't told you where he held onto him.

[redacted]
A. Yeah, I didn't remember. It's, it's just...

Gjendem
Q. But this reflects the...

[redacted]
A. ...the time that, it's been awhile.

Nemeth
Q. So this passage my partner just read to you, that refreshed your memory?

[redacted]
A. Yes, it does.

Nemeth
Q. So now you're remembering.

[redacted]
A. (inaudible)...

Nemeth
Q. You did remember he held on somewhere and now you're...

[redacted]
A. Yeah.

Nemeth
Q. ...saying, yeah, this, it's the legs.

[redacted]
A. Yes (inaudible).

Nemeth
Q. And that's, [redacted] told you that in the locker room the next day?

[redacted]
A. I think. I don't remember who talked to me in the locker room, though.

Nemeth
Q. Okay, well that's, that's what you said...

[redacted]
A. Yeah.

Nemeth
Q. ...back on December of '94.

[redacted]
A. Yeah, (inaudible)...

Nemeth
Q. And I realize that's almost a year.

[redacted]
A. ...time.

Nemeth
Q. Just for the record, we're looking at your previous statement on page 13, that's the statement you made to Internal Criminal investigators, Sergeant Hamilton and Sergeant Bell, who spoke to you in December in '94, okay. Okay, so you're not disputing this statement, in other words, right?

[redacted]
A. No, I'm not disputing it at all.

Gjendem
Q. Okay, and he told you that he was holding on to the legs, could he also told you that he was holding onto the guy's torso?

[redacted]
A. No, and I don't ever remember him talking about his torso.

Gjendem
Q. Did he tell you which leg he was holding onto?

[redacted]
A. Think both.

Gjendem
Q. He was holding on to both legs?

[redacted]
A. Yeah.

Gjendem
Q. Did he tell you how he was holding on to the leg?

[redacted]
A. No.

Gjendem
Q. Was he using his hands or his arms?

[redacted]
A. I guess he was grabbing them, from what he was saying, that he (inaudible) feet.

Gjendem
Q. Demonstrating now with both arms the front (inaudible)...

[redacted]
A. I, I'm assuming that's how you would grab a hold of someone if you had the legs to deal with because...

Gjendem
Q. But, but did he tell you that?

[redacted]
A. I think he did.

Gjendem
Q. You think he did.

[redacted]
A. Because now I remember him talking about the legs, the...

Gjendem
Q. So it's kind of refreshing your...

[redacted]
A. Yes.

Gjendem
Q. ...memory.

[redacted]
A. Yes.

Nemeth
Q. What else could he have told you?

[redacted]
A. That's about it.

Nemeth
Q. That, that next day?

[redacted]
A. I think that was about it.

Nemeth
Q. You think that was about it?

[redacted]
A. Yes.

Nemeth
Q. Did he say who was holding on to the legs besides him?

[redacted]
A. No.

Nemeth
Q. Did he say the guy put up a good struggle?

[redacted]
A. Yes, I think he did mention that.

Nemeth
Q. Did he say the guy was kicking?

[redacted]
A. Yes.

Nemeth
Q. He did.

[redacted]
A. Yes.

Nemeth
Q. That's why he grabbed his legs to keep from kicking him.

[redacted]
A. Yes.

Nemeth
Q. Did he say how he was kicking?

[redacted]
A. No, he did not.

Nemeth

Q. Did he say the handcuffs were on when he was, when he had a hold of his, did he say the handcuffs were on when he was holding on to the legs?

[redacted]
A. No, I don't remember him mentioning that before or after.

Nemeth
Q. Have you told us everything that [redacted] told you that next day?

[redacted]
A. That I, that I remember at this date.

Nemeth
Q. You're pretty good friends with [redacted] right?

[redacted]
A. Conversation, never done anything like go out or anything like that.

Nemeth
Q. Did he say how long he had a hold of the guy's legs?

[redacted]
A. No.

Nemeth
Q. Did he say what Kluth's involvement was?

[redacted]
A. Other than he saw Kluth being choked out.

Nemeth
Q. Oh, he did tell you that?

[redacted]
A. Yes.

Nemeth
Q. And what did he tell you was [redacted] role?

[redacted]
A. I don't remember him saying anything about [redacted]

Nemeth
Q. Do you know how long the incident lasted, the struggle with the inmate?

[redacted]
A. No, I don't.

Nemeth
Q. Did any of the deputies tell you?

[redacted]
A. No.

Nemeth
Q. You, you weren't there then, were you?

[redacted]
A. That's correct.

Nemeth
Q. So it couldn't have been 5 minutes or it could've been 20 minutes, you wouldn't know the difference, right?

[redacted]
A. Right.

Nemeth
Q. The other think I wanted to ask you is do you remember what kind of footwear that inmate had on, [redacted]

[redacted]
A. Yeah, I want to say he didn't have any shoes on, but I don't remember. No, I don't remember.

Nemeth
Q. Okay. Do, are inmates ever allowed to wear, inmates here in the mental observation module that we're talking about, 4400, are they allowed to wear combat boots or anything like that?

[redacted]
A. It depends on when they're booked in, that they're soft-toed and it, it really depends on the agency too as far whether or not...

Nemeth
Q. Okay.

[redacted]
A. ...can wear it.

Nemeth
Q. Alright.

[redacted]
A. But if he was in a mental observation module before, they would snatch his shoelaces.

Nemeth
Q. Okay. So it, in other words, it's procedure that inmates in this module 45, never have shoelaces at, at the, at the very least, right?

[redacted]
A. 44 is, I think at the time, that was a general population module, so if he had shoelaces, he was entitled to have them.

Nemeth
Q. Okay. Your memory is, he didn't have any shoes. Is that right?

[redacted]
A. That, that's what seems to have (inaudible)...

Nemeth
Q. Okay.

[redacted]
A. I don't remember him at any time wearing shoes.

Nemeth
Q. And do you remember your Inmate Injury Report, you documented an injury to his ankle.

[redacted]
A. To his heel?

Nemeth
Q. To his heel?

[redacted]
A. Yes.

Nemeth
Q. Okay. And do you remember photographing or videotaping his, that? Do you remember his videotape?

[redacted]
A. No, I don't remember videotaping the heel. I think I just basically stayed back, so that we could see the work going around him.

Nemeth
Q. Right.

[redacted]
A. I never (inaudible).

Nemeth
Q. Okay.

[redacted]
A. (inaudible).

Nemeth
Q. Alright. So is it your best memory that this inmate, [redacted] had no shoes on?

[redacted]
A. That's my best memory, yes.

Nemeth
Q. Okay. Okay, did the inmate have any injuries to his feet. You documented to his heel. Do you know how that injury occurred?

[redacted]
A. No, I don't.

Nemeth
Q. Was that injury consistent with a person having been hobbled recently?

[redacted]
A. Kicked at his own feet, yes.

Nemeth
Q. Okay.

[redacted]
A. Because of the cutting nature of the hobble.

Nemeth
Q. Okay. And by the heel, are you talking about the heel on the bottom of your foot, which is the sole part of the heel, or the back of the heel, which would be, you know, towards like your achilles heel area?

[redacted]
A. I think, I think that that particular thing I'm referring to the back where the strap would ride upon.

Nemeth
Q. Okay, so not the sole of the foot, in other words, correct?

[redacted]
A. That's right.

Nemeth

Q. Okay, so the injury, an injury that's most likely consistent with a hobble application, right?

[redacted]
A. Yes.

Nemeth
Q. Did you see any injuries on his feet consistent with having delivered kicks to people?

[redacted]
A. Oh, were having, an individual, like...

Nemeth
Q. Right.

[redacted]
A. ...hitting barefoot...

Nemeth
Q. Right.

[redacted]
A. ...or something.

Nemeth
Q. Right.

[redacted]
A. I don't know.

Nemeth
Q. The inmate?

[redacted]
A. No, I don't remember.

Nemeth
Q. And, and how about his hands, the inmate's hands? And, any injuries on the back of his hands or his knuckles or fingers indicative of having punched somebody?

[redacted]
A. I don't remember getting a clear view of either side of his hands because, just because of the way he was handcuffed...

Nemeth
Q. Okay.

[redacted]

A. ...and basically he was on his side.

Nemeth
Q. Again, we just looked at your Inmate Injury Report and there's nothing here that talks about any of those type injuries, is there?

[redacted]
A. Just that heel that (inaudible)...

Nemeth
Q. Just the heel that we think is consistent with the application of a hobble.

[redacted]
A. Yes.

Nemeth
Q. Okay. Alright, yeah, see just for the record, on the Inmate Injury form, under the description of "Injuries, Medical Disposition," that was filled out by, apparently by Nurse 346...

[redacted]
A. Leal?

Nemeth
Q. Leal, L-E-A-L, yeah, that's what it is, yeah. It indicates laceration to the left ankle, superficial lacer, a half-inch superficial laceration to the left ankle. There's no mention of any hand injuries whatsoever or any other foot injuries. So is that, is that consistent with your observations of this inmate?

[redacted]
A. Yes.

Nemeth
Q. Okay. Gjendem...

Gjendem
Q. I've got a couple more questions here. Now you walk in there and prior to going down, there's the...

[redacted]
A. With the gurney.

Gjendem
Q. ...putting the guy up on the gurney. Was there any blood on him? On the inmate, [redacted]

[redacted]

A.	Oh, yes. He was lying in a pool of blood or pool of blood on the concrete.

Gjendem
Q.	Was there any, was there any blood on the concrete floor?

[redacted]
A.	Yes, yes.

Gjendem
Q.	You've never mentioned any blood being on those deputies. Did any of the deputies have blood on them?

[redacted]
A.	I don't remember any of the deputies having blood on them.

Gjendem
Q.	I'm finding, I'm having a lot of difficulty with that. So much blood being on the floor and the deputies being in a real knock down struggle with this guy and there's no blood on the deputies.

[redacted]
A.	Kluth may have, but I don't remember any blood being on anybody.

Gjendem
Q.	And he, he was standing in sally port area when you got there, right?

[redacted]
A.	Yes.

Gjendem
Q.	And you didn't see any blood on him?

[redacted]
A.	Not on his body.

Gjendem
Q.	His hands?

[redacted]
A.	Not from the view that I got when I first walked in, no. I don't remember seeing any blood on them.

Gjendem
Q.	You had a conversation with [redacted] right?

[redacted]
A. Yes.

Gjendem
Q. Did you see any blood on him?

[redacted]
A. No.

Gjendem
Q. Did you see any blood of [redacted]

[redacted]
A. No.

Gjendem
Q. And Sloan was inside, right?

[redacted]
A. Yes.

Gjendem
Q. And no blood?

[redacted]
A. No.

Gjendem
Q. Did you see anybody take any photographs of Kluth?

[redacted]
A. No, I did not see anybody.

Nemeth
Q. That's it. We can offer you, we offer everybody an opportunity to add something that they feel is important that we haven't asked. Do you want to add anything at this point?

[redacted]
A. No.

Nemeth
Q. Okay. You told us everything you remember. Is that right?

[redacted]
A. Yes.

Nemeth
Q. Making full, complete, and truthful statements to us during this interview?

[redacted]
A. Yes.

Nemeth
Q. Okay, as the form you signed indicated at the beginning of this interview, you are being ordered not to discuss the facts of this case or any of the issues we discussed in this interview. Do you understand that?

[redacted]
A. Yes, I do.

Nemeth
Q. Okay, that means nothing. Obviously when you leave here, your friends out, out in the jail are going to know you're being talked to by us, okay? So you could tell them that you were interviewed, but that you cannot discuss the case, period. That's all you're allowed to say, okay?

[redacted]
A. Yes.

Nemeth
Q. You understand that?

[redacted]
A. Yes, I do.

Nemeth
Q. Okay. Your failure to follow that order can result in you becoming the subject of another...

[redacted]
A. Investigation.

Nemeth
Q. ...case or, yeah, another investigation involving insubordination in not following that order, okay? So it's incumbent on you to not say anything and to not talk to anybody involved in this case, okay?

[redacted]
A. Yes.

Nemeth
Q. Alright, we understand each other, [redacted]

[redacted]
A. Yes, we do.

Nemeth

Q. Okay. Anything else?

Gjendem
Q. That's it.

Nemeth
Q. Alright, thanks very much.

END OF INTERVIEW

ADMINISTRATIVE RIGHTS/SWORN WITNESSES

NOTE: This admonition is for Department personnel who are being interviewed in the capacity of **SWORN WITNESSES**.

I am SGT. JOHN A. NEMETH and this is SGT. ERNIE GJENDEM of the Internal Affairs Bureau, which is commanded by Captain ~~Judith A. Lewis~~. NORMAN L. SMITH.

You are about to be questioned as part of an official Los Angeles County Sheriff's Department administrative investigation. You are here as a witness in a matter which concerns another employee. The complainant has not filed a complaint against you, and you are not under investigation as a subject in this matter.

Do you have a Policy and Ethics Chapter of the Manual of Policy and Procedures? Yes [/] No [ ]
Are you familiar with its contents? Yes [X] No [ ]

You are hereby advised that the provisions of the Government Code, generally referred to as the Peace Officers' Bill of Rights, do not apply in this instance. You are specifically reminded that Policy and Ethics Section 3-01/040.70 and 3-01/040.75 require that you make true, full and complete statements. Any refusal to do so may result in your discharge or other punitive action.

NOTE: Sworn personnel being interviewed as witnesses only and who are not under investigation or not personally charged with any violation do not have a right to have a representative present during the interview. If it is determined during the interview that the deputy is likely to be subject to discipline, the interview shall be stopped and the deputy shall be advised that his status has changed to that of a subject.

In the event the witness declines to answer questions on the grounds of self-incrimination, the witness/employee shall be readvised of his administrative rights as though he were a subject. **You are being ordered not to discuss the facts of this case or any of the issues discussed during your interview with anyone other than your designated representative or attorney in this matter.**

Initials [initials]

The above admonition has been explained to me and I understand its contents.

DATE: 11-08-95 FILE NO. I.A.B. 008383

Person Interviewed: [redacted] (Signature) [redacted] (Print)

INVESTIGATOR: [signature] (Signature) JOHN A. NEMETH (Print)

DEP. [redacted]
I.C.I.B. INTERVIEW 12-6-94

WITNESS INTERVIEW

CASE NUMBER 494-00023-2300-444

[redacted]

Hamilton
Q. Okay, today's date is December 6, 1994, it's approximately 2317 hours. We're here at Men's Central Jail getting ready to talk to Deputy [redacted] What's your employee numbers, [redacted]

[redacted]
A. [redacted].

Hamilton
Q. [redacted], okay, assigned to, assigned to Men's Central Jail. We're investigating the case under ICIB file number 494-00023-2300-444. Present in the room is Sergeant Ron Bell, and myself, Sergeant Eric Hamilton from ICIB. Deputy, I'll call you [redacted] if you don't, I know I'm gonna mess up your last name, so, I'm not gonna even attempt. The incident that we're discussing occurred on October 27, 1994 at approximately 0030 hours in module 4400. Were you working on that date in question?

[redacted]
A. Yes, I was.

Hamilton
Q. Okay, where were you working?

[redacted]
A. I was working 4000 Prowl early morning shift.

Hamilton
Q. Okay. Did you hear about an incident that occurred in module 4400?

[redacted]
A. Yes, I did.

Hamilton
Q. Okay.

Bell
Q. How, how, did you become aware of that?

[redacted]
A. I was notified at the time of the incident, I was down in the officer's dining room, and I was notified by radio to 10-19 or report to the module, and there really wasn't any specification as to why.

Hamilton
Q. Who notified you?

[redacted]
A. Deputy Howard.

Hamilton
Q. Okay who is she, or he?

[redacted]
A. Deputy Howard is the booth person, or floor control...

Hamilton
Q. Okay, so the 4000 Booth Deputy?

[redacted]
A. Yes, yes.

Hamilton
Q. Okay, and what happened when you went up there?

[redacted]
A. I responded along with the other prowler at the time, my partner, Deputy Christolon, Rob Christolon, and the Senior for that night, Mike Jackson. We, in turn, all responded together, and walked in through 4400's door. I saw Deputy Kluth, he was all reddened in the face, walking around, kind of flustered. He had red marks around his neck, and I also saw an inmate closest to the gates, I guess, no actually those are the bars in the sally port on the Baker Denver side.

Bell
Q. Okay, as you enter the module where is he?

[redacted]
A. It would be on the right hand side.

Bell
Q. Okay, on the Baker Denver row side of the module?

[redacted]
A. Yes. And, I saw this inmate was handcuffed, and he was also hobble restrained, and he was bleeding from, from what I could tell at the initial time, the head area, at a, I couldn't tell where.

Hamilton
Q. Okay.

Hamilton
Q. Who, who else was present when you walked in there?

[redacted]
A. I'd say Deputy Kluth, [redacted] [redacted] and the Watch Deputy, he was the Watch Deputy for few...

Hamilton
Q. Okay, I'll let you refer to your in-service in a minute.

[redacted]
A. Alrighty.

Hamilton
Q. There was another, in other words they were...

[redacted]
A. Sloan.

Hamilton
Q. Okay.

[redacted]
A. There we go. I couldn't remember.

Bell
Q. Where were they located when you walked in?

[redacted]

A. Deputy Sloan was inside the module with the door propped open as, as if he was letting people in and out, and Deputy Kluth was standing, like I said, in the sally port, walking around, kind of flustered, reddened, and [redacted] and [redacted] were just standing in the sally port area, also, directly in front of the door.

Hamilton

Q. Who was in the booth?

[redacted]

A. Deputy Sloan.

Hamilton

Q. Sloan?

[redacted]

A. Yeah.

Hamilton

Q. Okay, okay. You said when you walked in, you saw the inmate on the floor. He had handcuffs, and he was hobbled.

[redacted]

A. Yes.

Hamilton

Q. Was he saying anything?

[redacted]

A. He was ranting and raving about some gang members kicking, or beating him up inside the module, or down on the row somewhere, and the deputies had come and rescued him from...

Bell

Q. What do you mean ranting and raving?

[redacted]

A. Just yelling, screaming, basically causing a disturbance.

Bell

Q. This is up in the module...

[redacted]
A. Yes.

Bell
Q. ...when you walk in?

[redacted]
A. Yes, I mean you could hear him from the, from the 'get go' right as soon as you walk in through the door, you could hear something being blabbered from the outside hallway, and...

Hamilton
Q. Was there anyone else in there, any civilians, or anybody, inmates?

[redacted]
A. You mean in that area, alone?

Hamilton
Q. Trusties, inmates that are out?

[redacted]
A. I didn't see any trusties, and I, there might have been someone in Baker shower, or Abel shower, one or the other, as far as inmate waiting to be, I guess he was coming back from court or something.

Hamilton
Q. Did you actually see someone, or, you're just...

[redacted]
A. I'm just assuming. I kind of remember vaguely, I don't know which shower it was, but there was someone there. But, I think there was someone there.

Hamilton
Q. Okay.

[redacted]
A. I think, 'cause that module houses the pill calls and I think what caught my eye was that he was just wearing his blue top and bottom.

Hamilton
Q. How about any inmates in the, is it, not the laundry room, but...

[redacted]
A. Oh, the mop room?

Hamilton
Q. Supply room?

[redacted]
A. No, I don't remember anyone in there.

Bell
Q. Do pill call people wear a different colored uniform usually?

[redacted]
A. Yeah, they usually wear the, the carrot top with the blue bottom.

Bell
Q. Orange top and a blue bottom. But this guy happened to have blue top and bottom?

[redacted]
A. That, that's what I...

Bell
Q. Recall?

[redacted]
A. Recall, yeah I don't exactly remember.

Bell
Q. Okay.

Hamilton
Q. Were there any inmates right outside of the module?

[redacted]
A. No, back up, if anybody back at the control booth directly across from it, there would be a hallway trusty, but he's usually inside the closet, just sitting down on a milk crate.

Hamilton
Q. Okay.

[redacted]
A. But, nobody directly outside the door looking in.

Hamilton
Q. Okay, so when you responded, you, the senior, and the other prowler, you noticed the four deputies basically standing around the sally port and one was in the booth, correct?

[redacted]
A. Yeah.

Hamilton
Q. And the inmate was laying on the floor adjacent to the gate, would you say Bravo...

[redacted]
A. That would be closest to the Denver gate...

Hamilton
Q. Okay.

[redacted]
A. ...cause it's closest to the shower area, so...

Hamilton
Q. You said that you noticed that he was bleeding?

[redacted]
A. Yeah.

Hamilton
Q. Where was he bleeding from?

[redacted]
A. It looked like from the head area, like I said, I couldn't really tell from where, because the way he was positioned, and the way he was lying down, he was basically lying in a pool, a little pool of blood.

Hamilton
Q. Okay. Was he complaining about any injuries or anything?

[redacted]
A. No, he was just ranting and raving that the deputies saved his life.

Bell
Q. How long was he ranting and raving?

[redacted]
A. Continuously, all the way down to the clinic, because I was the escorting deputy, and the one that...

Bell
Q. So, from the time you got up there, until, and he's still ranting and raving when you get down to the clinic?

[redacted]
A. Yes.

Bell
Q. How long were you there before they get up to the module with the gurney?

[redacted]
A. I'd say no less than 5 minutes, the gurney was already there, and they put him on.

Hamilton
Q. Five minutes after you get there, it takes them five minutes to get up from the clinic?

[redacted]
A. No, it was no less than 5, as far as me standing there and waiting for it, and it was, basically rolled in right after we walked in, because apparently they had already called for the gurney.

Bell
Q. Okay, you're saying no less than 5 minutes?

[redacted]
A. It was, it was under 5 minutes.

Bell
Q. Five minutes.

[redacted]
A. From the time I got there, it was under 5 minutes, by the time the gurney got there.

Bell
Q. Okay.

Bell
Q. And it takes you how long to get down to the clinic?

[redacted]
A. Probably about, well, with the elevator working in order, (laughs), probably about three minutes.

Bell
Q. So, for some period of time, probably between 5 and 8 minutes, this guy's continuously ranting and raving?

[redacted]
A. Yes.

Bell
Q. About anything besides being beat by gang members and saved by deputies, he was ranting and raving about anything else?

[redacted]
A. Most of it was, I kind of consider it rambling speech. It was a...

Bell
Q. Did he appear to be in a lot of pain?

[redacted]
A. It, it didn't really seem like he was in any in any pain the way he was ranting, and going on and on. And...

Bell
Q. He's behaving like mentally disturbed people do?

[redacted]
A. Yes. Yes, definitely.

Bell
Q. When they're agitated?

Hamilton
Q. And you're familiar with, what we refer to as 5150, correct?

[redacted]
A. Yes.

Hamilton
Q. Why is that?

[redacted]
A. I'm one of the mental obs prowlers. We work with 4300, 4500, 4600, which are all mental observation modules. I've been working there for about over three years now, so, kind of familiar with their actions, and the way they react.

Hamilton
Q. If you remember, what did his uniform look like, did it look like it was dirty, or look like it was torn in any places or anything?

[redacted]
A. Going back to the, the characteristics for the mental obs patients, he looked unkempt, as far as his general appearance as an inmate, cause most inmates will keep themselves pretty well groomed, and he just kind of appeared that, you know, right of the bat, you get that thing, oh, he's a, he's a ding.

Hamilton
Q. Okay. Once the clinic got there, what happened?

[redacted]
A. They put him up on the gurney, and put the belt over him to secure him down, so he wouldn't slide off of it, raised the gurney, and we started out walking him down.

Hamilton
Q. Did any, any of the deputies comment, deputies that were there, did they say what happened while you were up there?

[redacted]
A. No.

Hamilton
Q. They didn't tell the senior or...

[redacted]
A. I believe the senior walked over the asked what happened, but I just basically stood around in front of the guy listening to what he was talking or just...

Hamilton
Q. Okay. Was the sergeant there?

[redacted]
A. The sergeant, that was Mosley that night, he walked in a few minutes after we did. Oh, not even a few minutes after, just right after us.

Hamilton
Q. You see any 9000 personnel?

[redacted]
A. No.

Hamilton
Q. In the hallway, in the booth?

[redacted]
A. No.

Hamilton
Q. How about the 4000 booth?

[redacted]
A. No.

Hamilton
Q. Okay. Then, what happened once you went down to the clinic?

[redacted]

A. He just continued ranting and raving while he was being treated by the jailhouse doctor. And at that time, Sergeant Duncan, who I believe, was the Watch Sergeant that night, he came in, and started interviewing and asking this inmate what had happened. And this inmate continued on rambling about how, like I said, the gang members had beat him down, or beat him up, but he said, "Hey, we are, we should get this video", and so I went back down to the watch commander's office, got the video camera, came back to the clinic, and started recording him, and...

Hamilton

Q. Then, what happened?

[redacted]

A. He just, he continued on for a-, probably about 5 minutes worth of video, about how he was beat up, and that was basically it.

Hamilton

Q. Did he ever deviate from the story? You said that he, he was claiming that he was assaulted by inmates, other inmates, gang bangers, (inaudible)...

[redacted]

A. Yeah, he was, he was mentioning the blood gang members, from what I could recollect, something to the effect that blood gang members had, a deputy had come to this rescue, or a deputy had come to his rescue.

Hamilton

Q. Did he ever deviate from that, say that, for example, that the deputies did something to him?

[redacted]

A. Uh-huh. Not once.

Hamilton

Q. Anything else?

Bell

Q. No.

Hamilton

Q. Okay, I got one more last question. Did you happen later on, did you happen to talk to any of the deputies that were involved in that incident, excuse me.

[redacted]

A. I didn't really see them for the rest of the night, because they were busy writing the use of force packet, and with myself doing chow reliefs, and...

Hamilton

Q. How about the following day?

[redacted]

A. I talked to [redacted] in the locker room, because he sits, he dresses right in back of me, and he just said that the guy was a total wacko, and he came running in, that he had Kluth in a headlock, and so, and he was talking about something to the effect that he was holding onto the legs to keep him from kicking.

Hamilton

Q. He, who?

[redacted]

A. Deputy [redacted]

Hamilton

Q. He was holding on to?

Bell

Q. The inmate's legs?

[redacted]

A. The inmate's legs.

Hamilton

Q. To keep him from kicking?

[redacted]

A. From possibly kicking, and, apparently all of this took place while they were on the ground rolling around.

Hamilton
Q. Okay. Did he ever mention that this inmate was kicking at deputies, or doing anything?

[redacted]
A. He said he was thrashing around, but I don't know if he was intentionally kicking or, trying to kick anyone.

Hamilton
Q. Okay, so he just basically pinned his legs?

[redacted]
A. Yeah.

Hamilton
Q. Did he say anything about putting the hobble on, or anything like that?

[redacted]
A. No, I didn't really ask, like I said it was just in dressing room talk, quick dressing and talking and okay, well, I'll catch you later, I'll see you upstairs.

Hamilton
Q. Did you talk to any of the other deputies?

[redacted]
A. No.

Hamilton
Q. Okay. Can you think of anything else maybe that we forgot to ask that you think is important?

[redacted]
A. Uh-uh.

Hamilton
Q. Who saw him down there at the hospital? Was it Lil, I think it's...

[redacted]
A. Lil, Nurse Lil, that sounds like a familiar name. And, I don't even know who the on board doctor was that night.

Hamilton
Q. Have you ever dealt with this inmate?

[redacted]
A. No.

Hamilton
Q. There's no bloods out there?

[redacted]
A. If there, they've been declassed from the gang modules and they're just in general population, you know, with the so called effective, not, not going to bother anyone, or you know, show themselves as gang members.

Hamilton
Q. Can you think of anyone else that we can talk to about this incident, that may have witnessed what happened?

[redacted]
A. Hmmm.

Hamilton
Q. That you heard that may have been there, or that you saw that was leaving as you were coming up, or any inmates, any trusties, anybody?

[redacted]
A. No, not off hand. Like I said the hallway trusty was in the booth, not booth, but the closet.

Hamilton
Q. Are you sure of that, or is that where he's supposed to be?

[redacted]
A. That's where he usually is. You can go up on any given night, and he's usually sitting in there, propped on a milk crate.

Hamilton
Q. Was there an inmate on the phone?

[redacted]
A. When I walked in, no, there was, the whole sally port area was

cleared out.

Hamilton
Q. Okay, and you didn't see an inmate get back on the phone, or did you notice that the phone was on the receiver or not, or...

[redacted]
A. That I didn't notice, no.

Hamilton
Q. Okay. How about the module trusties? Did you notice them on the row walking around or...

[redacted]
A. No. Normally when something goes down in the module, they usually lock them down in the dayroom, so, I'm assuming they were, they were up in the dayroom.

Hamilton
Q. But, you didn't notice anyone in the dayroom?

[redacted]
A. No, well, I didn't even bother to pay attention.

Hamilton
Q. Okay. Alright, that's it, we're gonna end the interview at 2334 hours.

END OF INTERVIEW

I/M [redacted]

I.A.B. INTERVIEW 10-31-94

WITNESS INTERVIEW

CASE NUMBER IAB 008383

[redacted] ***Booking #***[redacted]

Nemeth:
Q. Today's date is Monday, October 31, 1994, time is 1151 hrs. I'm Sergeant John Nemeth from the Internal Affairs Bureau and this is my partner, Sergeant Tim Cornell. I'd like to explain to you, before going on tape, we work with the Internal Affairs office of the Sheriff's Department and we're conducting an investigation into a use of force that occurred on an inmate in Module 4400, back on October 27th at about thirty minutes past midnight and today we're at Central Jail, interviewing, what's your name, Sir?

[redacted]
A. [redacted]

Nemeth:
Q. And spell your first name for me.

[redacted]
A. [redacted] (okay)

Nemeth:
Q. You have a middle name, [redacted]?

[redacted]
A. Yeah. [redacted].

Nemeth:
Q. Can you spell that, please?

[redacted]
A. [redacted]. (alright)

Nemeth:
Q. And your birthdate.

[redacted]
A. [redacted]

Nemeth:
Q. And your home address.

[redacted]
A. [redacted]. (okay)

Nemeth:
Q. And your home phone number.

[redacted]
A. [redacted]

Nemeth:
Q. Is that 213?

[redacted]
A. 213. (okay)

Nemeth:
Q. You have a work address or phone?

[redacted]
A. No, I don't. (okay)

Nemeth:
Q. What is your booking number?

[redacted]
A. [redacted]. (okay)

Nemeth:
Q. Now were you, are you presently incarcerated at Men's Central Jail, Module 4400, Cell B, Baker, 4?

[redacted]
A. Yes, I am. (okay)

Nemeth:
Q. And were you in that cell on October 27th?

[redacted]
A. Yes, I was. (okay)

Nemeth:
Q. And did you hear or see anything unusual at around thirty minutes after midnight on that day?

[redacted]
A. I observed just a little bit and I heard a lot of screaming and, and hollering. (okay)

Nemeth:
Q. Why don't you tell me what events led up to that incident, if you, if you know of any that day?

[redacted]
A. Alright. [redacted] my cellee.

Nemeth:
Q. Is that [redacted]

[redacted]
A. [redacted] yes.

Nemeth:
Q. Is he a black inmate?

[redacted]
A. Yes, he was.

Nemeth:
Q. Okay.

[redacted]
A. He's, I think he's on medication or something, right. So every time the cell tend to open he was in and out the cell, right? (uh-huh) He went in and went out every time the gates rack, he went in and went out, right? And [redacted], [redacted], I guess he tended to start doing the same thing whenever the cell's open, right?

Nemeth:
Q. In other words, when the gate would open for some other reason, he was not suppose to step out but he would anyway?

[redacted]
A. Yes, he would. (okay)

Nemeth:
Q. To walk around, that type of thing?

[redacted]
A. And, yes, so I guess both of 'em was observed by the deputy and they was both instructed to go in the shower.

Nemeth:
Q. Now is that [redacted] and [redacted]?

[redacted]
A. Yes. (okay)

Nemeth:
Q. Go ahead.

[redacted]
A. So I, [redacted] he complied with them, so he went off into the shower, but [redacted] was like, "Why do I have to go in the shower?" Or some–, something like that, "Why I gotta go in the shower?" (uh-huh) So it was like he stayed out there, so I guess, I don't know but I guess the deputy call somebody else but, while he was in the hallway –this is the only part I observed– while he was in the hallway, [redacted] the deputy had put his hand on [redacted] back, (okay) he told . . .

Nemeth:
Q. Hold on a second, you say (inaudible) is in the hallway, what do you mean by hallway?

[redacted]
A. Well . . .

Nemeth:
Q. The freeway or outside of the freeway?

[redacted]
A. The freeway.

Nemeth:
Q. While [redacted] was walking on the freeway.

[redacted]
A. No, while he was like towards the front.

Nemeth:
Q. By the *gate* that leads into the freeway, or what?

[redacted]
A. Yeah, he was like right by the showers. (okay)

Nemeth:
Q. Was he outside of the gate that separates the freeway from where the pay phone is, that type of area?

[redacted]
A. No, he wasn't in that area.

Nemeth:
Q. It wasn't in that area?

[redacted]
A. He was on the freeway area.

Nemeth:
Q. He was still up on inside the freeway area.

[redacted]
A. Yes.

Cornell:
Q. Like in front of the shower door, like that?

[redacted]
A. Yes. (okay) So it was like the deputy had told him to turn around and face the wall, as he turned around, like, as he put his hand on his back [redacted] had turned around and I guess, you know what I'm saying, he caught him or something, just out of reflexes. (okay)

Nemeth:
Q. Let me just clarify exactly where this has happened. The deputy opened the Baker Row gate and came into the freeway, in front of the shower, and that's where (no, he didn't) this started happening?

[redacted]
A. Yeah, he came in, yeah, he came in, he open Baker Row gate.

Nemeth:
Q. Uh-huh, and did he come in? Or did, did [redacted] come out?

[redacted]
A. He came out. So he . . .

Nemeth:
Q. [redacted] came out?

[redacted]
A. Yeah.

Nemeth:
Q. So now they're on the . . . [redacted] went up the stairs and now he's on the floor where, near where the phone booth is or that level of floor anyway, right?

[redacted]
A. He's like right by the steps.

Nemeth:
Q. Right by the steps?

[redacted]
A. Yeah.

Cornell:
Q. Up or down?

[redacted]
A. Down. 'Cause he wouldn't come up, he was, he was . . .

Nemeth:
Q. But he still didn't come out on Baker Row yet?

[redacted]
A. He didn't, no, he didn't come out. (okay)

Nemeth:
Q. He's still on the other side of the Baker Row gate?

[redacted]
A. Yes.

Nemeth:
Q. And the deputy walked *in* that side?

[redacted]
A. Yes.

Nemeth:
Q. Did, did the deputy call somebody in to sit in on the booth?

[redacted]
A. Yes, he did.

Nemeth:
Q. A–, at that point he did?

[redacted]
A. Yes. (okay)

Nemeth:
Q. And then what happen?

[redacted]
A. And then I, well I, I guess he did, I don't know.

Nemeth:
Q. Well don't say, don't guess, just . . .

[redacted]
A. No. I, I only seen one deputy (uh-huh) right then and there. (okay)

Nemeth:
Q. Did you see anybody in the booth from where, your cell, or could you?

[redacted]
A. No, I didn't. (okay) I could have but I wasn't, I was not (inaudible). (okay)

Nemeth:
Q. So you don't know then that another deputy had been called in or not?

[redacted]
A. No, I didn't, no, I don't. (okay)

Nemeth:
Q. So tell, just tell us what you observed, don't guess at anything, okay?

[redacted]
A. Alright. I observed [redacted] he turned around and he hit the deputy in the jaw.

Nemeth:
Q. With what? His elbow?

[redacted]
A. With, with his elbow (uh-huh) like, like out of reflex, it, it wasn't like on purpose, soon as he got, shoved him against the wall and [redacted] turned around, right.

Nemeth:
Q. Now you're saying the wall, which wall would that be?

[redacted]
A. That was like the wall facing, well it's the bar, it's not the wall. The bars.

Nemeth:
Q. He pu–, the deputy pushed (yes) [redacted] into the bars?

[redacted]
A. Yes.

Nemeth:
Q. And this is the bars in front of the shower?

[redacted]
A. Yes.

Nemeth:
Q. Is this up the stairs and outside of Baker Row, or still inside the Baker Row freeway?

[redacted]
A. Still, still, still inside of Baker Row. (okay) So as he turned around, I guess the deputy was dazed, or something like. Then all of a sudden he had hit him.

Nemeth:
Q. Who hit him?

[redacted]
A. [redacted] had hit him, right.

Nemeth:
Q. Hit the deputy?

[redacted]
A. Yes, he did.

Nemeth:
Q. What, did he punch him?

[redacted]
A. He swung at him.

Nemeth:
Q. You saw [redacted] swing at the deputies?

[redacted]
A. Yeah, yeah. (okay) And after he swung at him all I seen was more police coming in, (uh-huh) police coming, a lot of police came, came in and it was like sho–, even the, in, in the shower and after that I didn't see nothing else, only came . . .

Nemeth:
Q. They put [redacted] in, I mean, they put [redacted] in the shower?

[redacted]
A. That's where they shoved him at, in the shower.

Nemeth:
Q. They were all inside the shower?

[redacted]
A. It was about ten deputies inside the sho–, I seen it, about . . .

Nemeth:
Q. Could you see in the shower from your cell?

[redacted]
A. No, I can't. (okay)

Nemeth:
Q. Then how do you know that *that's* what happened?

[redacted]
A. I know they *went* in the shower. That's where they shoved him at. It, it's no other, they didn't go up the stairs so they had to be in the showers.

Nemeth:
Q. Well listen, it sounds to me like you're trying to think your way through this, saying, "Okay, they didn't go upstairs so they had to." I don't want you to guess, (alright) I don't want you, if you didn't see something, I want you to tell me, "I didn't see it, so I don't know," I don't want you to try and put things together in your head and tell me that's what you saw.

[redacted]
A. Well I didn't see, a–, after they went in the shower, after they shoved him in the shower, I didn't see anything else.

Nemeth:
Q. You–, you're sure he got shoved in the shower?

[redacted]
A. Yeah, I'm positive. (okay)

Nemeth:
Q. You saw that happen?

[redacted]
A. Yeah.

Nemeth:
Q. Did somebody open the gate for the shower?

[redacted]
A. The gate was already open.

Nemeth:
Q. It had been opened.

[redacted]
A. Yes.

Nemeth:
Q. When did it get opened?

[redacted]
A. At the time I, I, well at the time they told [redacted] to go in the shower.

Nemeth:
Q. And he never closed it after, right?

[redacted]
A. No, he didn't.

Cornell:
Q. How do you know that?

[redacted]
A. Well I have no idea. (okay)

Nemeth:
Q. So, are you certain of this then, or you're not certain?

[redacted]
A. I'm uncertain. (okay)

Nemeth:
Q. Just tell us the things that you're certain about.

[redacted]
A. Well, it had to be open if they shoved him, they shoved him in there. It's no way you can go. (okay)

Nemeth:
Q. You *saw* that, wait, where, did you, (from, from my ce–) then he left the gate in order to come out?

[redacted]
A. Yeah, from my cell. Only thing you could see *is* the highway (uh-huh) so if he go anywhere this way, (uh-huh) ei–, either going into a cell or into a shower. (okay)

Nemeth:
Q. What did you hear happening during that time? Did you hear any comments or anything?

[redacted]
A. He was just hollering, I just heard him holler.

Nemeth:
Q. [redacted] was hollering?

[redacted]
A. Yes.

Nemeth:
Q. What was he hollering?

[redacted]
A. "Why are you doing this to me? I ain't," you know what I'm saying, he was just saying, "Why are you doing this to me? Why are you doing this to me?" (okay)

Nemeth:
Q. Anything else?

[redacted]
A. He was hollering.

Nemeth:
Q. Did you hear the deputy's say anything?

[redacted]
A. Nah-uh, I didn't hear deputies saying too much.

Nemeth:
Q. Did you hear anybody counting? One, two, three, or anything like that?

[redacted]
A. Uh-uh, I just heard hollering not, that's all I heard.

Nemeth:
Q. You heard, you heard [redacted] hollering?

[redacted]
A. Yes.

Nemeth:
Q. You didn't hear the deputies saying much of anything?

[redacted]
A. Uh-uh.

Nemeth:
Q. Did you hear deputies saying (inaudible)?

[redacted]
A. I heard, I was, I wasn't paying attention to that, into the deputies talking but it was a lot of commotion, e–, everybody was talking th–, that's where 'cause I was in the shower. I thought somebody was like, man.

Nemeth:
Q. Was what?

[redacted]
A. I can't, well I can't guess. (uh-huh) Only thing I knew somebody was getting beat. (okay)

Cornell:
Q. And what made you, what made you think that? That somebody was getting beat?

[redacted]
A. From, from experience out of him hitting that deputy I know he, they was in there doing something to him.

Cornell:
Q. Okay, and did you hear, you hear [redacted] was hollering?

[redacted]
A. Yes, I did.

Cornell:
Q. And what was he saying?

[redacted]
A. "Why you all doing this to me, I'm handcuffed? Why you all doing this to me, I'm handcuffed?"

Cornell:
Q. Did you hear anybody else say anything?

[redacted]
A. No, I didn't. (okay)

Cornell:
Q. Did you see anybody, any of the deputies hit [redacted]

[redacted]
A. No, I didn't. (okay)

Cornell:
Q. Where were you standing when you saw all this?

[redacted]
A. I was standing at my bar? (okay)

Cornell:
Q. So you were inside Baker 4?

[redacted]
A. Yes, I was.

Cornell:
Q. And was the door open or closed?

[redacted]
A. It was closed. (okay)

Cornell:
Q. And how are you able to see all the way down to the end where the showers are, where this incident was happening if the bars are closed? (by) Or the door is closed?

[redacted]
A. By being nosey, looking out the crack of my bar. (okay)

Cornell:
Q. And were you there by yourself watching this?

[redacted]
A. Yes, I was. The rest of my cellees it was like waking my cellees up just out of being excited. I was like, "Man, he getting beat, he getting beat."

Nemeth:
Q. So the rest of your cellmates were asleep?

[redacted]
A. Yes. He was sat up, [redacted] no, he had just woke up. (okay)

Nemeth:
Q. That's the guy that's outside waiting for us to talk to him?

[redacted]
A. Yes.

Nemeth:
Q. And who else was in your cell at this time? [redacted], yourself? You recall?

[redacted]
A. It was a couple of other guys.

Nemeth:
Q. Total of four or (it was) how many?

[redacted]
A. It was about five inmates.

Cornell:
Q. Remember anybody else's name?

[redacted]
A. No, I don't.

Nemeth:
Q. Remember what they looked like?

[redacted]
A. No. It was another Chicane, he had just came (uh-huh) that night.

Nemeth:
Q. Anybody else?

[redacted]
A. Not that I can recall right off hand.

Nemeth:
Q. So when you're up, you've got your head pressed against the gate and you're looking down the road towards the shower, is that right?

[redacted]
A. Yes.

Nemeth:
Q. Okay, and you're the only one doing that in your cell?

[redacted]
A. Yes.

Nemeth:
Q. Nobody else is?

[redacted]
A. No.

Nemeth:
Q. And [redacted] is in his bunk, kind of waking up, is that what you're saying?

[redacted]
A. Yes.

Nemeth:
Q. And you're telling him, you're waking up the other people saying, "He's getting beat, [redacted] is getting beat up"?

[redacted]
A. Yeah.

Nemeth:
Q. Was there three other people in the cell besides you or, or more? Or was there four or what?

[redacted]
A. I think it was three or, it was four.

Nemeth:
Q. Four *and* yourself?

[redacted]
A. Yes.

Nemeth:
Q. What was the, how many beds are in that cell?

[redacted]
A. Six and it was one on the floor. (okay)

Nemeth:
Q. One on the floor, alright. 'Cause [redacted] and, [redacted] and [redacted] also, were from that cell.

[redacted]
A. Yes.

Nemeth:
Q. So that would mean a total of seven people in that cell.

[redacted]
A. Yes.

Nemeth:
Q. That right?

[redacted]
A. Yes. (okay)

Nemeth:
Q. And the only names you could remember of inmates is [redacted] [redacted], yourself, and [redacted]?

[redacted]
A. And, I'm trying to think. A Chicano had just, he just went to the State Module yesterday, they just took the other one, that was in there.

Nemeth:
Q. Just went to the State Module?

[redacted]
A. Yes.

Nemeth:
Q. Did, did he see anything, do you know?

[redacted]
A. No, he didn't.

Nemeth:
Q. Was he in his bunk?

[redacted]
A. Yeah, he was on the floor, he was the floor sleeper at the time.

Nemeth:
Q. Did he hear anything, do you know or that anybody had talked about?

[redacted]
A. Woke him up. I, I woke all the cell.

Nemeth:
Q. You woke the whole cell up?

[redacted]
A. Yeah. (okay)

Nemeth:
Q. Did you guys in the cell talk about this in there after it happen?

[redacted]
A. Yes, we did. (okay)

Nemeth:
Q. And what was said?

[redacted]
A. That's when, that's when [redacted] said, "And they let me in here, they told me if I didn't say nothin' . . . No, they told me did I observe anything?" He said, "No. They said they was gonna send me to the hole if I said I saw something."

Nemeth:
Q. *Who* said that?

[redacted]
A. [redacted].

Nemeth:
Q. And *when* did he say that?

[redacted]
A. Huh?

Nemeth:
Q. *When* did he say that?

[redacted]
A. When he came back to the cell.

Nemeth:
Q. *That* night?

[redacted]
A. Yes, 'cause it was like, "How did you get back in the cell?" Like, "Man, they told me if I didn't see nothin' I can go back, but if I said I saw somethin' they was gonna send me to the hole." (okay)

Nemeth:
Q. Now after this event, before we went on tape you were telling me, you were concerned about talking to us because you were afraid you might be retaliated against by deputies, is that right?

[redacted]
A. Yes, because they had, for the last three or four days, they been coming to our cell.

Nemeth:
Q. Now, *who's* been coming to your cell?

[redacted]
A. Deputies. Not sergeants . . .

Nemeth:
Q. (inaudible)

[redacted]
A. No. Not sergeants, not (inaudible)

Nemeth:
Q. You know what these guys look like?

[redacted]
A. I can't remember their faces but I saw 'em. (okay)

Nemeth:
Q. You didn't notice their name tags on their uniforms?

[redacted]
A. I wasn't even paying, I was trying to like, "I don't know nothin'."

Nemeth:
Q. What time were these visits happening?

[redacted]
A. All during the day.

Nemeth:
Q. All different times?

[redacted]
A. Different times.

Nemeth:
Q. Or just at night or all different times of the day?

[redacted]
A. Like at night, a couple of times at night.

Nemeth:
Q. Anytime during the day?

[redacted]
A. It was like four different visits.

Nemeth:
Q. Uh-huh. Well I know there's no clocks in here but let me ask you this, you said there's four different visits, are they happening, can you attach them to like a meal time, like you know, you wake up for breakfast and after . . .

[redacted]
A. I think they made it after count.

Nemeth:
Q. So, we're talking after your last count at night and (right) after dinner, is that right?

[redacted]
A. Yes.

Nemeth:
Q. And did it happen between dinner and breakfast?

[redacted]
A. Nah, uh-uh. (when did they) One of them, I think one of 'em be like during the day, like after lunch or something.

Nemeth:
Q. After lunch?

[redacted]
A. Yes. (okay)

Nemeth:
Q. And tell me about the other three, when did they happen?

[redacted]
A. At night.

Nemeth:
Q. And by night you mean after your dinner time but before breakfast time, during that night period?

[redacted]
A. Yes. (okay)

Cornell:
Q. What were the deputies saying to you?

[redacted]
A. Like, "Who observed something? Who was here? If anybody was here, we know you was here, we're gonna go look your names up," and I was like, "I wasn't here." I told them I wasn't 'cause I didn't wanna be involved, I'm like, "I wasn't here," and next thing you know, they came back with, with our names and booking numbers and like, "Why did you lie? You said you wasn't here and you was here."

Nemeth:
Q. Okay. When was this? Was this the day of the incident, or day later or two days later, or?

[redacted]
A. Day, day later, a day after that, they hadn't been, I think they, they did come yesterday, if I'm not mistaken, but I know for a fact they came the day before yesterday. That was the last time they came.

Nemeth:
Q. Well, what time was that when they came the day before yesterday?

[redacted]
A. About . . .

Nemeth:
Q. During the nighttime?

[redacted]
A. Yes.

Nemeth:
Q. 'Cause you said three were at night and one was after lunch, (yeah) is that right?

[redacted]
A. Yeah.

Nemeth:
Q. Okay and you, can you describe any of the deputies that came to visit you on any of these occasions? What they look like?

[redacted]
A. I know one was kind of short, about 5'8".

Nemeth:
Q. One, what kind of hair?

[redacted]
A. Probably like dark black beard or brown, probably. (okay)

Cornell:
Q. Was this guy Hispanic, Black guy, what?

[redacted]
A. He look like he can be mixed, White and, White and Hispanic.

Cornell:
Q. So you, color skin?

[redacted]
A. Dark.

Cornell:
Q. Dark skin?

[redacted]
A. Yeah.

Nemeth:
Q. Mustache?

[redacted]
A. Yes.

Cornell:
Q. Noticed his nose?

[redacted]
A. No, I don't, I wasn't in their face I was, I was trying to stay away for 'em. (okay)

Nemeth:
Q. When this guy came, did you say the day before yesterday?

[redacted]
A. Yes.

Nemeth:
Q. And this was in the evening time?

[redacted]
A. No, at night.

Nemeth:
Q. I mean at night (yes) after your dinner? I think it was like late at night?

[redacted]
A. It was about like say like, a couple about hour after count.

Nemeth:
Q. And what time is count? Ten . . .

[redacted]
A. Around, around from 8:30 to 9 o'clock, 10. (okay)

Nemeth:
Q. And what did this deputy say?

[redacted]
A. He asked, "Who was in the cell?" And, no, he asked where was [redacted]?" (uh-huh) And [redacted] wasn't there.

Nemeth:
Q. Uh-huh. (they) Where *was* [redacted]?

[redacted]
A. They had transferred him. (okay)

Nemeth:
Q. Did any deputy specifically threatened you or anything, say like, "If you say anything, you're gonna get in trouble," or?

[redacted]
A. No they, no they didn't.

Nemeth:
Q. Nobody specifically threaten you?

[redacted]
A. No. (what did)

Cornell:
Q. Did you hear them threaten anybody else?

[redacted]
A. Huh?

Cornell:
Q. Did you hear any deputies threaten anybody else?

[redacted]
A. No. (okay)

Nemeth:
Q. Why is it you felt threatened then if you said something? Because of what [redacted] told you that deputies told him, is that why?

[redacted]
A. No.

Nemeth:
Q. Why?

[redacted]
A. Just, I know how the deputies operate. (okay)

Nemeth:
Q. So based on your own past experience, that's what you were afraid of?

[redacted]
A. Yes.

Nemeth:
Q. Nobody explicitly threatened you or said anything?

[redacted]
A. No.

Nemeth:
Q. Or to anybody else that you're aware of?

[redacted]
A. As far as [redacted]'s concerned?

Nemeth:
Q. Except for [redacted], you already mentioned somebody (oh) threatened [redacted], right, according to him, is that right?

[redacted]
A. Yes. (okay)

Nemeth:
Q. Anybody else say they were threatened?

[redacted]
A. No. (okay)

Nemeth:
Q. I'll turn over to my partner for a while.

Cornell:
Q. Okay. Let's, let's, let's go back to this again and let me make sure that I've got your statement right 'cause I don't, I don't want it to be confusing, okay? The, the gate opens for Baker 4 and [redacted] and [redacted] come out the cell.

[redacted]
A. Yes. (okay)

Cornell:
Q. And, and [redacted] and [redacted] are told by the Module Officer to go back inside?

[redacted]
A. No, they wasn't.

Cornell:
Q. You never heard that?

[redacted]
A. They, they, they didn't get called at that time. (okay) They was just on, after, after the gate's open they was just on the freeway.

Cornell:
Q. Okay, how long do you think they were on the freeway?

[redacted]
A. For about ten minutes.

Cornell:
Q. Okay, then what . . .

[redacted]
A. Ten or fifteen minutes.

Cornell:
Q. Then the next thing you know is somebody yelling at 'em to go back in the cell?

[redacted]
A. No. Somebody's yelling at 'em, "Get in the shower! Get in the shower!"

Cornell:
Q. Okay, and how are they yelling at 'em?

[redacted]
A. They said, "Get in the damn shower! Get in the damn shower!"

Cornell:
Q. I mean, are they standing there face to face?

[redacted]
A. No, they, he's on the microphone. (okay)

Cornell:
Q. And you, who do you think that is, that is on the microphone?

[redacted]
A. That's the deputy.

Cornell:
Q. From the module?

[redacted]
A. Yeah, from the . . .

Cornell:
Q. From the booth?

[redacted]
A. Yes, from the booth.

Cornell:
Q. Do you know that deputy's name?

[redacted]
A. No, I don't.

Cornell:
Q. Would you recognize him if you see him again?

[redacted]
A. No, I wouldn't. (okay)

Cornell:
Q. So, [redacted] goes in the shower, you can see this thing? Gate, the gate to the cell is closed and you can now see through the crack that [redacted] goes in the shower?

[redacted]
A. Yeah.

Cornell:
Q. You saw that?

[redacted]
A. Yeah, when he went in the shower 'cause I was like looking like, "And who are they talking to like that?" I know that they, they just came out our cell and they been on the freeway 'cause they was running errands for people that, from their cells.

Cornell:
Q. Okay, had he rack the gate back shut again, on the cell?

[redacted]
A. Over at the cell?

Cornell:
Q. On, on your cell.

[redacted]
A. Our cell? Soon as they came out the cells were racked back. (okay)

Cornell:
Q. So then you're looking through the crack and, did you see [redacted] walk into the shower?

[redacted]
A. Yes. (okay)

Cornell:
Q. And then you see [redacted] and what, what's he doing?

[redacted]
A. He was playing dumb like he, he ain't going in there, that, well I ain't saying that's what he said but he was like, "What? What?" And like, "Get in the shower," and he like turned around.

Cornell:
Q. Did he do anything else while he, during this time? Is [redacted] doing anything else at all?

[redacted]
A. No, he wasn't, he was walking back and forth.

Cornell:
Q. Just kind of rolling up and down the freeway?

[redacted]
A. Yeah. (okay)

Cornell:
Q. And how long a period of time do you think he did that before the deputy came out to contact him?

[redacted]
A. About three minutes, two to about three minutes. (okay)

Cornell:
Q. And then the next thing you see is you see the deputy coming down the stairs to contact [redacted]

[redacted]
A. Yeah. He told him to turn around, get against the wall.

Cornell:
Q. Hang on, hang on, we're not there yet, he's not downstairs yet, right? Deputy's upstairs in the booth, he's gotta come out the booth (yes), he's gotta come down the stairs to get on the freeway level (yeah), and then he's gotta contact [redacted] right?

[redacted]
A. Yes.

Cornell:
Q. Now, did you see him do that?

[redacted]
A. Yes, when, when he, what I saw, I saw when he said, "Turn around, get against the bar."

Cornell:
Q. Okay, so what you're telling me is the deputy is already downstairs, he's already come out the booth and he's come downstairs and he's now telling [redacted] to stand against the bars, (yes) is that right?

[redacted]
A. Now that's what I saw.

Nemeth:
Q. The bars or the wall? You just said "wall" a second time.

[redacted]
A. The bar, the bar, not, not the wall, the bar. (okay)

Cornell:
Q. Okay, so did you stop looking at any point during that time, I mean, how come you didn't see the deputy come down the stairs?

[redacted]
A. Because, I heard him, I heard him, what I saw, he said, "Get against the wall, get against the wall," (okay) but I guess he meant the bar 'cause that's where he was against.

Cornell:
Q. But you never saw him come out of the booth and come down the stairs, is that right?

[redacted]
A. No, I didn't.

Cornell:
Q. Okay, well that's why I'm saying, you watched [redacted] walk into the shower.

[redacted]
A. Uh-huh. (okay)

Cornell:
Q. Well, but then you don't see the deputy come down.

[redacted]
A. 'Cause he was on the speaker. (okay)

Cornell:
Q. And then you said there was a couple, three minutes that lapses in there.

[redacted]
A. Yes.

Cornell:
Q. Are you still watching during that time or did you go back and sit down?

[redacted]
A. Nah, I didn't sit down at no point, I was still like . . .

Nemeth:
Q. Let me ask you, is it possible that [redacted] let the deputy open the gate and had [redacted] step off of the freeway, is that possible?

[redacted]
A. I have no idea.

Nemeth:
Q. Well, I'm asking you, you know, is that possible that that could be what happen?

[redacted]
A. I know . . .

Nemeth:
Q. Or are you *absolutely* certain, in your mind, that you saw them downstairs by that shower?

[redacted]
A. Yes.

Nemeth:
Q. You're absolutely certain of that?

[redacted]
A. Yes. (okay)

Nemeth:
Q. The deputy only open the gate to come in, he didn't (yeah) open it and let, ('cause [redacted] wouldn't) call [redacted] out?

[redacted]
A. [redacted] wouldn't come (inaudible) until he told him to turn around. He like cursed at him like, "Turn your ass around," (okay) 'cause he was refusing, you know what I'm saying?

Nemeth:
Q. Uh-huh.

Cornell:
Q. And that's the, that's the point that I'm trying to focus on. The deputy had to come out of the booth and he had to come downstairs but you didn't see that, right?

[redacted]
A. No. (okay)

Cornell:
Q. The next thing you hear, you hear the deputy or you see the deputy telling [redacted] to turn around and face the wall, is that right?

[redacted]
A.	No, that's, I t–, when I heard he messing when it, it brought back to my attention like he back out there, you know what I'm saying, so.

Cornell:
Q.	Okay so you we–, were you not watching during that time?

[redacted]
A.	At that time, I wasn't watching. (okay)

Cornell:
Q.	That's fine, that's all I wanna know because people are gonna ask me how you're seeing all this stuff and then all of a sudden you don't see something, you see something again. (yeah) If you looked away, you looked away, okay, all I want is the truth here on what you saw and not what anybody told you, (inaudible).

[redacted]
A.	I'm not saying I observed the whole thing.

Cornell:
Q.	And that's okay, I know, I know you didn't see the whole thing, okay, I know, I already know that, okay, 'canse I was in your cell this morning and I looked down there and it's a little hard to see and if you look away for a minute and something happens and then you're attention is drawn back to it, *that's* the point I'm trying to bring out.

[redacted]
A.	Yes. (okay)

Cornell:
Q.	So you look away for a second, you hear the deputy say *what* to him?

[redacted]
A.	He said, "Turn around, (okay) get against the," he didn't say, "the bars," he said, "the wall." (okay)

Cornell:
Q.	So you then look back down (yeah) the crack and out the window or out the crack of the (yeah) bars and you see the deputy do what?

[redacted]
A.	He was turning him around, facing the bar. (okay)

Cornell:
Q.	Now which way is [redacted] facing when he's doing this?

[redacted]
A.	He was facing . . .

Cornell:
Q.	And let's use it with, 'cause on side you have a solid concrete wall and on the other side you have a shower with the bars, right?

[redacted]
A. Yes. (okay)

Cornell:
Q. So which way was, did you see which way [redacted] was facing, do you know?

[redacted]
A. He was facing the opposite way from the control booth. (okay)

Cornell:
Q. So he was actually facing toward the shower bars, right?

[redacted]
A. Yes.

Cornell:
Q. And the deputy told him to do what?

[redacted]
A. "Turn around and face the bars."

Cornell:
Q. He was already facing them.

[redacted]
A. But he wasn't facing, he was facing towards him like, (okay) well I can tell you he said, "Turn around and face the bars," (okay) as he turned around . . .

Cornell:
Q. Did [redacted] do that?

[redacted]
A. Yeah, he turned around.

Cornell:
Q. Okay, he turned around, then what the deputy . . .

[redacted]
A. He complied at that. The deputy put one hand on his shoulder, he was gonna fri–, frisk him. (okay)

Cornell:
Q. Do you know which hand on which shoulder? Can you remember that as you sit here today?

Nemeth:
Q. You were holding up your right hand.

[redacted]
A. His, his, his right hand.

Nemeth:
Q. The deputy's right hand (yeah) on [redacted] right shoulder, or was it, was he standing directly behind him?

[redacted]
A. Yes. (okay) And it was just . . .

Nemeth:
Q. The way your motion is . . .

[redacted]
A. Yes, it's, it was his right hand, (okay) okay, on which, you know, on his right shoulder. (okay)

Cornell:
Q. Okay, and then what happens?

[redacted]
A. And at that, at that point [redacted] turned around.

Nemeth:
Q. Now you're making a swinging move–, movement with your right elbows (yes) protruding, right?

[redacted]
A. He was, he turned around and, well as he was turn–, turning around like I, why he's gonna search him, you, you know, and he caught the deputy in his shou–, in, in his chin.

Nemeth:
Q. How do you know that?

[redacted]
A. [redacted] jaw.

Cornell:
Q. Okay now, before we get, now wait, before we, before we get there, okay, the deputy reaches out with his right hand to put it on [redacted] shoulder.

[redacted]
A. He, he put it on his shoulder.

Cornell:
Q. He did?

[redacted]
A. Yes.

Cornell:
Q. Is he pushing him, is he just resting his hand, what's he doing?

[redacted]
A. No, he's pushing him towards the bar, closer towards the bar.

Cornell:
Q. You *saw* the deputy push him toward the bars?

[redacted]
A. Yes.

Cornell:
Q. You're sure of that?

[redacted]
A. Yes. (okay) I'm positive.

Cornell:
Q. And at that point, that's when [redacted] spins around and catches the dep–. . .

(end Side A–start Side B)

Nemeth:
Q. Okay, we're on Side B of the interview with Inmate [redacted] Time is 1215 hrs.

Cornell:
Q. Okay. So, Mr. [redacted] then, then, then the, Mr. [redacted] turns around then and hits the deputy in the, in the chin or on the face, where? Did you see where he hit him?

[redacted]
A. In the jaw.

Cornell:
Q. It was in the jaw, which jaw was it?

[redacted]
A. I can't really.

Cornell:
Q. Okay.

Nemeth:
Q. How do you know he hit him in the jaw?

[redacted]
A. Because the motion that he made, the deputy was dazed after he did it.

Cornell:
Q. Did the deputy, how did the deputy respond when he was hit by the elbow?

[redacted]
A. He said, I think he said, "Oh, shit!" And he was dazed.

Cornell:
Q. Well, when you say "dazed," did he, did he make any kind of movement at all?

[redacted]
A. He like went down a little bit. He wasn't knocked off his feet or nothing, he just stepped back.

Cornell:
Q. He stepped back?

[redacted]
A. Yes. (okay)

Nemeth:
Q. Are you *positive* his elbow, [redacted] elbow make contact with the deputy?

[redacted]
A. Yes. (okay) He wouldn't have been dazed how he was and then he like rushed towards [redacted]

Cornell:
Q. Okay, and what did he do?

[redacted]
A. He like rushed towards him and like threw him back against the bars and after that, I guess . . .

Cornell:
Q. Okay, how, how did he do that? Describe that for me.

[redacted]
A. As far as how he . . .

Cornell:
Q. He rushed toward him and then what did he do?

[redacted]
A. He like went up under [redacted] arm, that's when [redacted] was swinging on him, [redacted] was swinging on him but the deputy like went up like that, like from high as, he had his arms coming around [redacted] and would, like pushed him back up against the bars. (okay)

Cornell:
Q. Had he grab, did he grab a hold of [redacted] or not?

[redacted]
A. He grabbed him like a bear hug.

Cornell:
Q. The deputy did?

[redacted]
A. Yes. (okay) Like a bear hug (uh-huh) and shoved him against the bars.

Cornell:
Q. Okay and, and, and as he's doing this, as he's, as he's, 'cause what you're doing is you're motioning that he's, the deputy's kind of down a little bit and (yes) then he's kind of rushing up and he grabbed him by the, in a bear hug? (uh-huh) And shoved him back, shoved [redacted] back to the bars, (yes) is that right?

[redacted]
A. Yes. (okay)

Cornell:
Q. And [redacted] was swinging on him at this time?

[redacted]
A. Yes.

Cornell:
Q. You saw him throwing fists at him, trying to hit him?

[redacted]
A. Yes. (okay)

Cornell:
Q. Then what happens?

[redacted]
A. That's when all them deputies came. (okay)

Cornell:
Q. Did you ever see either, either of the two, [redacted] or the deputy, did you ever see 'em fall to the floor?

[redacted]
A. Well, probably during when they . . .

Nemeth:
Q. Not *probably.*

Cornell:
Q. Don't *probably* me, okay? Did you ever see, you're telling me that the deputy had [redacted] in a bear hug.

[redacted]
A. No, I, I didn't see e'em fall.

Cornell:
Q. You never fall apart, okay. And you don't know or do you know whether or not the shower door, the bars were open or closed?

[redacted]
A. It was open.

Cornell:
Q. And how do you know that?

[redacted]
A. Because when the rest of the deputies came, they shoved him off into the, into the showers.

Cornell:
Q. Okay so they disappeared from your view?

[redacted]
A. Yes.

Cornell:
Q. And you're surmising that the only way they could have gone to get out of your view was to be inside the shower, (yes) is that what you're telling me?

[redacted]
A. Yes. (okay)

Nemeth:
Q. Mr. [redacted] let me remind you that we don't want you to say anything, okay? I don't, I don't want you to say one thing as opposed to another, I just want you to tell me what you saw, okay? You don't have to try and connect the dots for me, okay? Just tell me what you saw and heard because I have a distinct feeling that you're, you're kind of sprinkling in things that you may (yeah) have heard or you think happen but *aren't* sure, okay? It's very critical that you tell me *only* what you saw happen, okay? And we haven't, we clear right now?

[redacted]
A. Yes. (okay)

Nemeth:
Q. This is very important, this question I'm gonna ask you, okay? I want you to think *really* hard, alright? And it doesn't bother me if you end up telling me you weren't looking at the time, okay? And it doesn't bother me if you tell me you *were* looking, I'm not looking for any particular answer, I'm not trying to put any words in your mouth but it's very important this question I'm gonna ask you, okay? Are you *absolutely* certain that the dispute that you saw happening, the shoving and the bear hugs and all that was happening on the same level that your cell was on, on B-4, on the B Road, Freeway 4, or could it have been up above the stairs? Do you know, for sure, one way or the other?

[redacted]
A. It was on 4.

Nemeth:
Q. You're absolutely certain of that?

[redacted]
A. I'm, yeah, I am. (okay)

Cornell:
Q. Did you ever see either the deputy or [redacted] have each other in a head lock? One or the other?

[redacted]
A. No. (okay)

Cornell:
Q. Did you ever see the deputy swinging his fists at [redacted]

[redacted]
A. No.

Cornell:
Q. Did you ever see the deputy kick [redacted]

[redacted]
A. No.

Cornell:
Q. Did you ever see *any* deputy kick [redacted]

[redacted]
A. No. (okay)

Cornell:
Q. So, what you're telling us is the absolute truth, is that correct?

[redacted]
A. Yes.

Cornell:
Q. You're not lying to us?

[redacted]
A. No I'm not. (okay)

Cornell:
Q. And you only saw it to the point where you now believe that they pushed [redacted] inside the shower because he was out of your view, was that right?

[redacted]
A. Yes. (okay)

Cornell:
Q. And how many deputies do you think came into the module, to help the deputy that was involved in this?

[redacted]
A. No less than eight. (okay)

Nemeth:
Q. Okay. Did you ever hear [redacted] say, complain, "You're killing me," or anything like that?

[redacted]
A. Yes. Yes, I did.

Nemeth:
Q. And what, anything else along those lines?

Cornell:
Q. What, specifically? Can you remember?

[redacted]
A. Sep–, I mean, specifically I can but I know he was saying, "Why you doing this to me? You're killing me! You're hurting me!" (okay)

Nemeth:
Q. Did he ever complain that people were kicking him? Or did you ever hear anybody say anything about kicking?

[redacted]
A. No.

Nemeth:
Q. No.

[redacted]
A. Not, not at that time.

Nemeth:
Q. But you said you didn't see any kicking at all because (no I didn't) in your opinion they went into the shower, or something like that, going out of your view.

[redacted]
A. Yes. (okay)

Cornell:
Q. Is that the last you saw of this incident?

[redacted]
A. Yes.

Cornell:
Q. What did they do with [redacted] Did you ever see 'em taken him out of there, or?

[redacted]
A. The took him out while I was talking to my, my cellmates.

Nemeth:
Q. Waking everybody up?

[redacted]
A. Yes.

Cornell:
Q. So you just kind of . . .

Nemeth:
Q. With everybody . . .

[redacted]
A. No, I was, I then woke everybody up, (okay) I'm like, "Man, they, they, they doing it," and I was kind of, "They doing it."

Nemeth:
Q. Now when, when [redacted] returned to the cell you said it was later that evening?

[redacted]
A. Yes.

Nemeth:
Q. How much later, do you know?

[redacted]
A. It's about like thirty-five minutes after the incident.

Nemeth:
Q. So shortly thereafter, actually?

[redacted]
A. Yes. (okay)

Nemeth:
Q. Did he tell anybody in the cell anything?

[redacted]
A. Yes, he did. (okay)

Nemeth:
Q. And is anything you're telling us now a result of what he said, or is this, or is *this* what you're saying to us now, just what . . . ?

[redacted]
A. This is what *I* saw.

Nemeth:
Q. That's all we want to hear, good. (just) So you're not factoring nothing else then, right?

[redacted]
A. No, I'm not. (okay)

Cornell:
Q. Okay. So when the deputies and, and [redacted] went inside the shower, did you then just stopped looking and walk away from the bars or what did you do?

[redacted]
A. I was still on my feet, looking back periodically back at the bars.

Cornell:
Q. Did you ever hear any sounds that sounded like they might be consistent with somebody being hit?

[redacted]
A. Well . . . what you mean by hit?

Cornell:
Q. Well, you're telling me that they're down there beating up . . .

[redacted]
A. I, I heard scuffling.

Nemeth:
Q. Scuffling sounds?

[redacted]
A. Yeah. (okay)

Cornell:
Q. Okay, specifically, like what?

[redacted]
A. Kicks, boots, scuffling against the boot.

Nemeth:
Q. You did, you did hear it?

[redacted]
A. That type of sounds, yes.

Cornell:
Q. So you heard boots were shuffling against the floor?

[redacted]
A. Yeah, like they was . . . I don't know, I can't, I wasn't in there but it sounded like they was wrestling something 'cause the whole, they, they was moving around (uh-huh) (inaudible).

Nemeth:
Q. Feet were shuffling back and forth?

[redacted]
A. Yes.

Cornell:
Q. Okay, that's what I'm trying to say because you're saying that they were beating him up and you know from past experience that if you hit a deputy you're gonna get beat up, but that's what I wanna know if you heard sounds that were consistent with, with maybe a, a struggle or a scuffle that was going on down there.

[redacted]
A. Yes.

Cornell:
Q. And you did.

[redacted]
A. Yes.

Cornell:
Q. Did you ever hear any kind of handcuff ratcheting as though he was being handcuffed or anything of that nature?

[redacted]
A. Yes, I heard that right after he was in the shower. (okay)

Cornell:
Q. And then after you heard that ha–, that ratcheting of handcuffs, did you hear any other sounds that were consistent with any kind of a shuffle or a scuffling down there at all?

[redacted]
A. Yes, he was like, "Why you all doing this to me?" That's when I told you earlier he said, "I'm handcuffed, why you still doing this to me?"

Nemeth:
Q. Oh, you heard [redacted] say, "I'm handcuffed," (yes) and you still heard sounds that you believe were consistent with a fight or a scuffle, is that right?

[redacted]
A. Yes. (okay)

Cornell:
Q. And what were those sounds?

[redacted]
A. Just scuffles.

Cornell:
Q. Like?

[redacted]
A. Like.

Nemeth:
Q. Okay, you're shifting your feet, not your (inaudible).

[redacted]
A. Not, not . . . Foot's on the floor and you're (inaudible) or they could have been on anything. (okay)

Nemeth:
Q. Did you ever hear [redacted] say, "I surrender, I give up, don't do this anymore," other than, you, you've already mentioned you heard him say, "Why you doing this to me?" (all I know) "I'm handcuffed," you heard him say that, is that right?

[redacted]
A. Yeah, he's like, "Oh, I'm dying!" He said, "I'm dying," too, okay.

Nemeth:
Q. Did you ever hear him say, you know, words that would be, I, I don't know and I'm not trying to put words in your mouth, but did you ever hear [redacted] say something like, you know, "Fuck you! Get away from me!" Or, you know, anything along those lines, "Leave me alone!" You know, or anything like that? Like sounds that might be consistent if he was still fighting or struggling?

[redacted]
A. Nah-huh.

Nemeth:
Q. You didn't hear anything like that?

Cornell:
Q. Did you, what kind of force did you see the deputies use on him? The deputy, any deputy, use on him.

[redacted]
A. No type of force as far as being out, out, out in the hallway.

Cornell:
Q. And other than that you had mentioned the grab, (yeah) the bear hug and the grab and, and the push toward the bars?

[redacted]
A. I look at that as him protecting himself right there. (okay)

Cornell:
Q. What about the push toward the bars? Was that, you saw that, did that look like it was unnecessary to you?

[redacted]
A. Well it could have been but it also can be normal, too, (uh-huh) you know as far as them, the way they operate (audible).

Cornell:
Q. And yet they, if the deputy tells you to walk up to the bars and you don't do that and he pushes you up toward the bars, is that, should he do that? I mean . . .

[redacted]
A. They do it, I don't if they should.

Cornell:
Q. Well I'm just saying that, in your opinion, if, if a deputy tells you to go up to the bars and you don't go and he pushes you toward the bars, is that, is that okay for him to do that to you?

[redacted]
A. No it's not but I'm gonna do what they ask me to do, (uh-huh) so they won't do that.

Cornell:
Q. Could this thing have been avoided if [redacted] would have done what the deputies asked him to do?

[redacted]
A. Yes, it could have. (okay) If he had, if he would have went in the shower in the first place, it could have been avoided.

Cornell:
Q. If he wouldn't have come out of his cell, would it have been avoided?

[redacted]
A. Yes, it would have.

Cornell:
Q. Did he have any reason to be out of his cell, that you knew of?

[redacted]
A. No, he didn't.

Cornell:
Q. He wasn't called for release?

[redacted]
A. No, he wasn't.

Cornell:
Q. He wasn't called to go to Wayside or anywhere else.

[redacted]
A. No, he wasn't.

Cornell:
Q. To you--, to you're knowledge, you never heard them call his name?

[redacted]
A. No.

Cornell:
Q. Did you ever hear 'em call [redacted] name?

[redacted]
A. No. (okay)

Cornell:
Q. Is there any other piece of information, anything you're sitting on, that you know that you saw that we didn't ask you about, that you can tell us?

[redacted]
A. No.

Nemeth:
Q. Okay. I don't have anything further. Is there anything you wanna add at this time, before we go off tape, you wanna tell us for the record? No? You're shaking your head "no."

[redacted]
A. No. (okay)

Nemeth:
Q. I'll give you my card, like I said if you, if you get contacted or you're worried about retaliation, you call me up, write my name and number down on something else in case you're worried that they take the card from you, alright?

[redacted]
A. Alright. (okay)

Nemeth:
Q. We'll end the tape at 1225.

DOCTOR STEVEN HALUS
I.C.I.B. INTERVIEW 12-22-94

WITNESS INTERVIEW

CASE NUMBER 494-00023-2300-444

STEVEN HALUS

Hamilton
Q. Okay, today's date is December 22, 1994. It's approximately 1618 hours. We're here at Huntington Memorial Hospital in Pasadena. We're here with Dr. Steven Halus. It's H...

Halus
A. ...One second, Sir. I'm sorry, here's, here's the original consult for Urology.

Hamilton
Q. Okay, let me, let me just take care of this.

Halus
A. Oh.

Hamilton
Q. His last name is spelled H-A-L-U-S. He's a third year resident, he was the doctor on duty at LCMC on October 27, 1994. He was one of the doctors that saw Inmate [redacted] Booking Number 4135694. This case is being investigated under ICIB File Number 494-00023-2300-444. Present in the room, as I stated earlier, is Dr. Steven Halus, Sergeant Ron Bell, and myself, Sergeant Eric Hamilton, both from ICIB. Dr. Halus, is it correct that you were working at USC Medical Center, Jail Ward, on October 27th?

Halus
A. Correct.

Hamilton
Q. Okay. Did you have a chance to see a patient that was brought over from Men's Central Jail?

Halus
A. I see all patients brought over from Men's Central Jail.

Hamilton
Q. Okay. Do you remember [redacted]

Halus
A. Yes, I do, sir.

Hamilton
Q. Okay. Did you have a chance to examine him?

Halus
A. Yes, sir.

Hamilton
Q. Okay, what did you find when you examined him?

Halus
A. Had a black male who had a laceration above, I believe, his left eyebrow, and pain in his, in his testicle from some type of altercation.

Hamilton
Q. Okay. Are you reading something right now?

Halus
A. I was reading one of the consultation notes from the urologist on, on the Jail Ward.

Hamilton
Q. Okay, is that something that you wrote, or?

Halus
A. No, it's something that Dr. Dunn wrote.

Bell
Q. Okay, is it something you remember talking to Dr. Dunn about?

Halus
A. Yes, sir.

Bell
Q. Do you want to relate what that is?

Halus

A. Basically, when I, we first examined the patient, we had two patients with testicular problems that night, and this patient, we thought, didn't have a testic-, a major testicle problem, but we had another patient that, that actually had a major testicle problem at the same time, and we were going to ultrasound both of them. Mr. [redacted] we thought, had a very low suspicion for a fracture of the testicle, and another patient, I don't remember his name, was gonna, will have, was, was probably gonna have a fracture of the testicle, and it turned out the reverse was true. One patient didn't have a fractured testicle and Mr. [redacted] did, so I was just looking at Dr. Dunn's note that says, he says, patient had less testicular trauma, and our plan was to get a testicular ultrasound through a small fracture, although suspicion low, and he's, we're thinking that it was probably a hemocele, metacele versus reactive hydrocele.

Hamilton

Q. Which is what, in layman's terms?

Halus

A. Blood around the testicle or a, water around the testicle.

Hamilton

Q. Okay. Did you notice any swelling or anything?

Halus

A. The left testicle was, I believe it was the left testicle, it was extremely swollen and it was swollen and extremely tender, it wasn't, as I remember, it wasn't ex, hugely swollen, just very tender, extremely tender, was the way we documented it.

Hamilton

Q. Okay. Did you notice any other injuries to the inmate?

Halus

A. Besides the laceration above his forehead, no, I don't recall any injuries, and my, the notes don't indicate any injuries that we saw.

Hamilton

Q. Okay. Did the inmate tell you how he got injured?

Halus

A. The notes, referring to notes, it states he got kicked in the balls and I don't remember anything further on that whether it was another inmate, deputy, or such.

Hamilton

Q. Okay. Did the inmate appear to be in any pain?

Halus

A. When examining his testicle, he was in a lot, a lot of pain, but in general, I, I don't remember this inmate particulars, this patient being particularly in grave distress. My note doesn't indicate that, and the notes I reviewed from the consultants, don't indicate this patient being in any significant distress. But, besides that, I can't say further.

Hamilton

Q. Okay. Was the patient able to answer your questions, (someone coughs). Did he appear to be out of it or...

Halus

A. ...No...

Hamilton

Q. ...Incoherent or anything...

Halus

A. ...No...

Hamilton

Q. ...Like that?

Halus

A. He didn't, he was, the nurses' notes are well documented and he does not seem, from my, the notes I have in front of me, (inaudible) seems cooperative with the exam, from my notes and my recollection, that's the way he was.

Hamilton

Q. Okay. When were those notes written?

Halus

A. Those notes were written on, on the morning of the 27th.

These are, what I'm looking at right now, is the copy of the, of what we call our Emergency Medicine form, or this is what we will see all our patients on, we'll make notation, this is the chart.

Hamilton
Q. Okay. At the bottom it says, Emergency Room Record. Is that...

Halus
A. ...Emergency Room Record, there's, there's two in the packet that you have given me, but one is from a previous admission, and my signature is scrawled on the bottom of the one I'm looking at.

Hamilton
Q. Okay. Did any other medical staff have the chance to examine the patient, or the inmate? That particular evening, when he was brought in from Men's Central Jail?

Halus
A. My intern, Dr. Conrad, saw the patient. Dr. Dunn, Matthew Dunn, of the Urology service saw him in consultation. It's our practice to get consultation, we have specialties on a lot of the patient and he recommended the ultrasound of the testicle, which we did.

Hamilton
Q. Okay. What's Dr. Conrad's first name?

Halus
A. I think it's Will, or William.

Hamilton
Q. Okay, and he's an...

Halus
A. ...He's an intern.

Hamilton
Q. Intern, okay.

Halus
A. That's a first year doctor, and he's, he's practicing under my supervision.

Hamilton

Q. Okay. We asked you off tape, was the injury to the testicle consistent with a new injury or old injury, and what was your statement to that?

Halus

A. It was swollen, it's tender, it's, it's consistent, it, with a fracture it's consistent with a, more of a new injury, but with hydrocele or other type of injury, it's more consistent with an older type of injury, but this turned out to be a fracture.

Hamilton

Q. Okay. Do you have anything, Ron?

Bell

Q. No, we've covered it.

Hamilton

We have all the doctors' names.

Bell

Okay.

Hamilton

Q. And also, real quick. When you examined him and, did you notice any other bruising or scratches or anything around his groin area, his legs, his thighs, anything being consistent with...

Halus

A. ...Not that I noted in, in the, in, in either the ER sheet or the, Emergency Room Record, and I haven't seen any documentation of that, any other consult's notes, and the best of my recollection, this being almost two months ago, I don't remember anything.

Hamilton

Q. Okay. Had he had bruising or something, would you have noted it, if it were just minor bruising?

Halus

A. If it was minor bruising, in that area, we would have probably noted it, yeah.

Hamilton
Q. Okay. Did you actually examine the inmate from top to bottom, from head to toe, or did you just examine the areas that were obviously injured?

Halus
A. On this particular patient, I cannot say, my general practice is to take a closer look at the areas of injury after my, after the intern has evaluated him, and see what other things that would, I would probably listen to his heart and lungs and listen, check out his eye to make sure there is nothing else going on and that, but my exam would have been more focused on the areas of injury that had been determined already.

Bell
Q. Okay. Did you see or note anything that would indicate that he was kicked on the groin, six to twelve times.

Halus
A. No, I did not see or note any.

Bell
Q. ...struck elsewhere on the upper body, head area, twenty, twenty-five times.

Halus
A. I didn't note anything, the only injury I noted on him on his head was this laceration and checking and, basically that there was no blood behind his ear drums or in his, no black and blue marks over his eyes. Those are, those are specifically notated in the chart and that his, he didn't have any fractures to his face that were palpable or on exam.

Hamilton
Q. How about any swelling around the face or throat or anything noticeable?

Halus
A. None of that's notated. As I said, we, what's notated is that he didn't have any blood behind the ears, he didn't have any bruising behind the ears, he didn't have any bruising, when I'm saying bruising, excuse me, I should say black and blue marks, around the eyes, and that his facial bones were basically stable

and that there wasn't any, there wasn't any gross abnormalities to his face, to his bony structures.

Hamilton

Q. Okay, you also mentioned off tape that there was another inmate that came in with a testicle problem.

Halus

A. Correct.

Hamilton

Q. And you mentioned to me over the phone yesterday that this, one of the inmates, whether it was inmate [redacted] or this other inmate that came in around the same time, mentioned that he had a prior injury to a testicle.

Halus

A. Correct.

Hamilton

Q. Was it, do you remember if it was inmate [redacted] or this other person, or you're not...

Halus

A. ...I couldn't say with total certainty. I'm believing the patient with the epididymitis, which Dr., he had also, his testicle removed, stated he had a very funny story for a fracture which was he backed into a wall ten days ago or something like that, and, but that's the patient we thought that actually did have a testicular fracture, so.

Hamilton

Q. Okay. One more question. If a person was laying down on the floor with the legs open, a male obviously...

Halus

A. ...Uh-huh...

Hamilton

Q. ...In this particular case, and someone stepped on the groin area or the testicle, would it look the same as it did in Mr. William's case versus a kick?

Halus
A. I couldn't answer, I don't have the expertise to answer that question, sorry.

Hamilton
Q. That's okay. I just thought I'd ask and you never know until you ask. Anything else?

Bell
Q. No.

Hamilton
Q. Okay, we appreciate your time, we're going to end this interview at 1631 hours, okay?

***** END OF INTERVIEW *****

DEP. CAROL HOWARD
I.A.B. INTERVIEW 11-13-95

WITNESS INTERVIEW

CASE NUMBER IAB 008383

CAROL HOWARD

Nemeth
Q. Today's date is Monday, November 13, 1995. Time is 2300 hours. I'm Sergeant John Nemeth from Sheriff's Internal Affairs and this is Sergeant Ernie Gjendem. We are present today at Men's Central Jail, Captain's office, interviewing Deputy Carol Howard. Deputy Howard, can you state your, and spell your last name and your employee number for the record, please?

Howard
A. My last name is Howard, H-O-W-A-R-D. Employee number is [redacted].

Nemeth
Q. Okay, and Deputy Howard, we're here interviewing you, as I explained prior to going on tape, regarding Sheriff's Internal Affairs Case #008383. And prior to going on tape, I showed you a copy of your rights as a sworn witness in this case and I see you signed the form, initialed it and answered a couple of questions. Do you understand your rights as a witness in this case, Deputy Howard?

Howard
A. Yes, I do.

Nemeth
Q. Okay. Prior to going on tape, we discussed with you briefly what the topic of this interview will be and that is to further explore some of the answers you provided to Internal Criminal Investigators back about a year ago in December of '94 when they interviewed you regarding the same issues, and that is, we're talking about a force incident that occurred in Module 4400 on October 27, 1994. Do you remember that incident, Deputy Howard?

Howard
A. Yes, I do.

Nemeth
Q. Okay. And you were working that night, were you?

Howard
A. Yes, I working in 4000 control.

Nemeth
Q. Okay, and today your assignment is essentially the same. You're assigned to Men's Central Jail 4000 floor area.

Howard
A. Yes, I'm in the 4300 prowl.

Nemeth
Q. Tonight.

Howard
A. Tonight.

Nemeth
Q. Okay. And the night of the incident, October 27, 1994, you were working the 4000 floor control booth, is that right?

Howard
A. That's correct.

Nemeth
Q. Okay. And on that night, tell me how you first learned of this incident?

Howard
A. I heard a P.A. transmission go out on the 5000 floor which is directly above us, and I couldn't catch very much of it, but I did hear 415 and I was under the assumption that they had a fight up on 5000 floor and I saw two of the 5000 prowlers run downstairs into 4400 and that's when it came to my attention that there was a fight in 4400.

Nemeth
Q. Okay. Who were the two prowlers you saw come down?

Howard
A. [redacted] and [redacted]

Nemeth
Q. And, for the tape, that's Deputy [redacted] and Deputy [redacted]. Is that correct?

Howard
A. That's correct.

Nemeth
Q. Okay. And you know those deputies were early morning deputies assigned to the 5000 floor on that night, October 27th?

Howard
A. Yes, they were.

Nemeth
Q. Okay. And is that the first you learned of it? In other words, nobody telephoned you or radioed you for help or did anything of that nature?

Howard
A. No. No. No one contacted me at all.

Nemeth
Q. Okay. If there is a disturbance, a fight, whether it involves inmates or inmates and deputies, what's the normal procedure?

Howard
A. Usually, they contact the control booth, and I will either contact main control, which will put it out on the big P.A., or I will put it out on the-- on the radio.

Nemeth
Q. Okay, so what you're saying is usually the module that--that's having the disturbance would notify the control booth for that particular floor. In this case, that would have been you, correct?

Howard
A. That's correct.

Nemeth
Q. And nobody did that, is that right?

Howard
A. That's correct.

Nemeth
Q. And, did anybody radio you or anything of any nature?

Howard
A. No, the--the two deputies that were already in there did not have a radio.

Nemeth
Q. Okay. There are phones in the module control booth though, right?

Howard
A. Yeah.

Nemeth
Q. Okay. Did you later learn why you weren't notified?

Howard
A. Yeah. From what I understand, Deputy Sloan was on the phone with 5000 control with Deputy McGroarty, who was working 5000 control, when the fight started in 4400 and he told Deputy McGroarty that there was a fight and then hung up the phone and I'm--I'm not sure what happened after that.

Nemeth

Q. Okay. Okay. That's what you assume caused the two 5000 people, [redacted] and [redacted] to run down--

Howard

A. --Yes.--

Nemeth

Q. --and run into the module.

Howard

A. Yes.

Nemeth

Q. Okay, at that point, when you saw them run down, you still didn't know exactly what was going on. Did you?

Howard

A. No.

Nemeth

Q. Okay. Were you--Did somebody ever tell you what was going on?

Howard

A. Finally at, the 9000, I guess a few deputies up on 9000 heard the call and they were in downstairs and after they left, they finally stopped by and told me that there had been a fight in 4400, and that's when I contacted my sergeant and my prowlers and the senior.

Nemeth
Q. Okay. So, you did that as soon as you learned what was going on there from the people on 9000 that had responded and left and stopped in the booth to talk to you?

Howard
A. That's correct.

Nemeth
Q. To tell you? Okay, and who were those people from 9000 that responded?

Howard
A. The ones that I can remember are Deputy Barrett, Deputy Broad and Deputy Romero.

Nemeth
Q. Okay. You told me prior to going on tape, you were certain there were four individuals from 9000, is that right?

Howard
A. I was pretty sure that there were four deputies that had come down first and then Deputy Barrett followed them just a few seconds later.

Nemeth
Q. Deputy Barrett--

Howard
A. --Yes.--

Nemeth
Q. --followed them. So four plus Deputy Barrett, is that correct?

Howard
A. Yes, that's correct.

Nemeth
Q. So that's a total of 5 from 9000 floor.

Howard
A. That--That's what I remember.

Nemeth
Q. Okay. And, let's say if I was to tell you that Kammer has already been identified as one of the individuals, does that fit in with your memory of what you saw?

Howard
A. Yeah, it possibly could have been Kammer.

Nemeth
Q. Okay. Who else could it possibly be?

Howard
A. I was thinking possibly Deputy Icamen, but I'm--I'm not real sure.

Nemeth
Q. Icamen?

Howard
A. Icamen.

Nemeth
Q. Does he still work here?

Howard
A. Yes, he works day shift.

Nemeth
Q. And, prior to going on tape, we looked at the in-service, and Icamen is I-C-A-

Howard
A. I-C-E--

Nemeth
Q. I show--according to in-service, it shows I-C-A-M-E-N and that particular day, on October 27, 1994, he was listed as working 9000 movement deputy #2 and he has two stars next to his name which indicates he's some kind of emergency respond--response person or something--indicates--

Howard
A. ERT.

Nemeth
Q. ERT, Emergency Response Team #2. Okay, so now that we're kind of going over this and trying to bring your memory back to this incident, is it--is it Icamen? Is that who you're telling me was the fifth person, there?

Howard
A. Who was the fifth--the fifth person?

Nemeth
Q. Well the fifth from 9000. We've identified now that there's been--there were five people from 9000 floor, according to what you just said. Four responded somewhat ahead and then Deputy Barrett, you said, was the last one, correct?

Howard
A. Yeah. He--he--

Nemeth
Q. So, that's five.

Howard
A. --he came up a few seconds afterwards.

Nemeth
Q. Is that right?

Howard
A. Yeah.

Nemeth
Q. Okay. Now, what I'm asking you to do is remember that incident in your mind and tell me whose faces you see coming down those stairs going into module 4400.

Howard
A. Yes, I've--the only ones I can remember were Romero, Broad and Barrett. And possibly Kammer.

Nemeth
Q. Okay, how. Well, you're sure it's five people? That's what you said a minute ago.

Howard
A. Well, well, I'm not positive...

Nemeth
Q. Not positive there's five?

Howard
A. ...there was five people.

Nemeth
Q. Okay.

Howard
A. But, I do remember there was--there was three or four deputies that came down at first and then Barrett followed, so there's a possibility that it could only of been three that had come down.

Nemeth
Q. Now, do you remember seeing Icamen come down that night to this incident?

Howard
A. I can't remember--I don't remember him at all, really. But, that doesn't mean he wasn't. That doesn't mean he wasn't there and it doesn't mean that he was there, but I'm not--I'm not sure of--

Nemeth
Q. Okay.

Howard
A. I'd--I'd hate to say anything.

Nemeth
Q. Okay.

Howard
A. As far as being positive that he was there, 'cause I'm not.

Nemeth
Q. Okay. But, you think he was there, is that-- Is that a fair statement?

Howard
A. It's a--it's a possibility that he was there.

Nemeth
Q. Okay. If we had to go percentages, what's the percentage that he was there, in your mind?

Howard
A. It could be as good as, you know, 50 percent that he was there.

Nemeth
Q. Okay, well that's about 50-50. I mean that's about even--

Howard
A. Yeah, a 50-50 chance he was there.

Nemeth
Q. Okay, that's the highest, 50-50. It's not over 50? Not 60 percent sure he was there, just a toss-up, huh?

Howard
A. Just a toss-up.

Nemeth
Q. Okay. So those four individuals and possibly five, is that right?

Howard
A. Yeah.

Nemeth
Q. Okay, well, let me just look at this in-service real quick again. Is there any chance it's anybody else from 9000 other than Icamen, if there's five people, is it, could it have been any of these other people? Dvorak...

Howard
A. No.

Nemeth
Q. O'Connell. Guerrero. Goldowski.

Howard
A. The majority of these people that are in the dorms are locked down in the dorms.

Nemeth
Q. Okay. So, Thomas.

Howard
A. I don't remember seeing Thomas there at all.

Nemeth
Q. Okay. Well, Dvorak's a prowler. He's not locked in, right?

Howard
A. Yeah. I didn't see him there. I would remember him.

Nemeth
Q. Okay, so.

Howard
A. 'Cause he--

Nemeth
Q. Icamen's name is the only person that comes to your mind then of this list?

Howard
A. Yeah, it could--he possibly could have been.

Nemeth
Q. That possibly could have been there. None of the others.

Howard
A. No.

Nemeth
Q. Okay. All right, but you're--you're 50-50 chance that he was there. Is that what you're telling me now?

Howard
A. Yeah.

Nemeth
Q. Okay. Okay. The next thing is--okay, in chronological order, you were in the booth, correct? That night?

Howard
A. That's correct.

Nemeth
Q. Okay. When did you hear that P.A. announcement from 5000. What time on the clock was it?

Howard
A. I--I don't remember at all.

Nemeth
Q. Not at all?

Howard
A. No, I don't remember what time it was at all.

Nemeth
Q. Did you write any reports regarding this event?

Howard
A. No, I--I don't think so, because I did not witness any force at all.

Nemeth
Q. Okay, so it's not customary that you would write a report, right?

Howard
A. No.

Nemeth
Q. Did you take any notes or anything of that nature. Your deputy notebook or anything like that?

Howard
A. No, I don't usually carry a notebook. I was [redacted] at the time and I don't usually carry a notebook.

Nemeth
Q. You were working inside the booth and...

Howard
A. In a secured area.

Nemeth
Q. ...don't have much contact with the inmates in that area.

Howard
A. I would assume that it was possibly around 1 o'clock.

Nemeth
Q. 1:00 A.M.?

Howard
A. In the morning.

Nemeth

Q. Okay. And, you don't have any other way of recalling what time it was, though, right?

Howard

A. No.

Nemeth

Q. You just kind of guesstimating from your memory?

Howard

A. I'm guesstimating because usually the officers' dining room opens at 12:30 and that's when the deputies--my deputies, my prowlers--would go downstairs to eat. So, I'm assuming it would be possibly around 1:00 in the morning.

Nemeth

Q. Okay. And that's because the prowlers assigned to 4000 that night were down in the ODR at the time of this event.

Howard

A. That's correct.

Nemeth

Q. Okay. Who were the 4000 prowlers that night?

Howard

A. Deputy [redacted] and Deputy Christolon.

Nemeth

Q. Okay. Anybody else?

Howard
A. And Senior Jackson was with them.

Nemeth
Q. Is he the 4000 senior that night?

Howard
A. Yes, he is.

Nemeth
Q. Okay. And all three of them were down eating in the officer's dining room, is that correct?

Howard
A. That's correct.

Nemeth
Q. Okay. Now. Okay, using that time estimate. Well, actually, that's the--the hour that you're estimating, correct, about 1:00 or so?

Howard
A. Yeah. Yeah.

Nemeth
Q. You said that the dining room, the officers' dining room opens at 12:30 A.M., though?

Howard
A. That's correct.

Nemeth
Q. Okay. Now, what time did you see Deputy Kluth? I mean Deputy Sloan come up on the 4000 floor.

Howard
A. It--I would say approximately 10 to 15 minutes before this incident happened. Before I--before I heard the P.A. up on 5. I would say it was approximately that time.

Nemeth
Q. 10 to 15 minutes before that? All right, and do you know what his business was up on the floor that night?

Howard
A. No, I'm--I'm not sure. I do know that Deputy Kluth and Deputy Sloan worked the kitchen together and that they were friends and it was not unusual for Sloan to go upstairs and just hang out talking with Kluth in the booth.

Nemeth
Q. Okay. I showed you prior to going on tape your previous statement, the transcription of which I hold in my hand, and on page 2, I pointed out to you that you had previously answered, provided an answer and referred to Deputy Sloan who was working watch deputy that night happened to be visiting Kluth in 4400. Now, we've looked at the in-service and the in-service indicates that Deputy Sloan was in fact not working watch deputy, but was actually listed as having been the 1000 prowler and the other person who had originally had been written in there, Osborne, was scratched out and Sloan's name indicated in there. Do you remember why you thought Deputy Sloan was working watch deputy that night?

Howard
A. Yes, at main control, right when we walked into the security area, there's a table where we sign in and I remember seeing Sloan sitting at that table and over the past few weeks he had been working watch deputy off and on, so I assumed he was watch deputy again that evening.

Nemeth
Q. And is it customary that the watch deputy sits at that table you're talking about?

Howard
A. Yes, it is.

Nemeth
Q. And that's--those two factors combined caused you to believe he was watch deputy that night?

Howard
A. That's true.

Nemeth
Q. Okay. Now, looking at the in-service, do you have any reason to believe this in-service is incorrect in indicating his assignment was 1000 Prowler #2 for that night.

Howard
A. No, I don't have any reason to believe it was incorrect.

Nemeth
Q. Okay. Okay, so Sloan comes in and you don't know why, but you assume to visit because had he done this in the past?

Howard
A. Yes, he had.

Nemeth
Q. Okay. Is it like a pretty frequent occurrence. Nightly, almost?

Howard
A. Yeah. Every night that he was on, he would come up and just sit and visit with his friend for a while.

Nemeth
Q. Okay. And that you said earlier because Kluth and Sloan had at some point been assigned together in the basement kitchen area or something?

Howard
A. Yes, that's correct.

Nemeth
Q. Okay. So, he's up there, Sloan is up there talking to Kluth at module 4400 and Kluth was the assigned module officer that night, right?

Howard
A. That's correct.

Nemeth
Q. And, this--Sloan appears 10 to 15 minutes before you heard that announcement from the floor above you?

Howard
A. Uh-huh.

Nemeth
Q. You have to say "yes" or "no" for the tape.

Howard
A. Yes.

Nemeth
Q. Okay. And, the next thing you know, is you hear that announcement from upstairs on 5000?

Howard
A. Yes.

Nemeth
Q. The floor directly above where you were sitting? How much time between that announcement and when Deputies--I believe you said it was [redacted] and [redacted] Is that correct? [redacted] and [redacted] responded?

Howard
A. Yes, that's correct.

Nemeth
Q. How much time from the announcement to the time [redacted] and [redacted] got into module 4400?

Howard

A. He--he was--Deputy McGroarty was working 5000 was still announcing that there was a 415 when Deputy [redacted] and Deputy [redacted] were running down the stairs towards 4000 floor.

Nemeth

Q. Okay. And that was my next question. How did they arrive? Did they run down the escalators that are--?

Howard

A. Yes, they did.

Nemeth

Q. Okay. Those are right adjacent to your booth, so you could see that, right?

Howard

A. That's correct.

Nemeth

Q. And, okay, so, give me a time estimate from the time you first heard the announcement to when those deputies-- I'm talking about when they got in module 4400.

Howard

A. I would--I would say that it would be as--as short as like three, maybe four seconds. By the time that I heard the announcement to where they were in.

Nemeth

Q. Okay. So, it's possible that they even started responding before the announcement began, then?

Howard
A. Yes.

Nemeth
Q. Is that correct? Okay. (Clears throat.) Now, how much time elapsed from the time deputies [redacted] and [redacted] got into 4400 until the next person--the next deputies came into 4400?

Howard
A. I would say no more than a minute. Yeah, I would say no more than a minute. It--it took 9000 a little bit to get down, I don't know why.

Nemeth
Q. Okay. So, but you're saying it took 'em less than a minute to run from that floor which is two floors above you, correct?

Howard
A. Yeah.

Nemeth
Q. To run down two flights of escalators and get into the module.

Howard
A. Uh-huh.

Nemeth
Q. Or was it something more than a minute?

Howard
A. No, I'd have to say it wasn't more than a minute, 'cause they were, they were in there pretty fast. They were in there right away.

Nemeth
Q. Okay, we're not talking from the time you heard the announcement. We're talking from the time those deputies got in there.

Howard
A. Yeah.

Nemeth
Q. Okay. So about one minute, 60 seconds later?

Howard
A. Yeah.

Nemeth
Q. Okay.

Howard
A. It--it possibly, it could've--could have been a minute, a minute and a half.

Nemeth
Q. Okay, 90 seconds?

Howard
A. Yeah.

Nemeth
Q. Something like that. So we're talking--

Howard
A. It was still pretty--pretty fast, but not enough time for me to think. You know, where, where's everybody else?

Nemeth
Q. Where's the help coming from? Uh-huh.

Howard
A. Yeah. I would have to say, yeah, it was no more than 90 seconds.

Nemeth
Q. Okay. Now, did those people from 9000 and just to re-cap. You said that they were--you're certain it was Deputy Romero and you're certain it was Deputy Broad.

Howard
A. Yes.

Nemeth
Q. And you're certain it was Deputy Barrett, the last person, and who is the other--the other one?

Howard
A. I'm--I'm pretty sure that Kammer was there, Deputy Kammer.

Nemeth
Q. Okay.

Howard
A. And I suspect that possibly Deputy Icamen could have been there.

Nemeth
Q. Okay.

Howard
A. I'm not sure.

Nemeth
Q. Now, tell me the order that-- Did they come down the same path, the escalators? They ran down two flights of escalators?

Howard
A. Yes, they did.

Nemeth
Q. Okay. So, you saw them, right? You had a clear view of them coming in from the side of your control booth glass, right?

Howard
A. Yeah.

Nemeth
Q. Okay. Who--who was running down the escalator first?

Howard
A. I--I remember Broad. I remember seeing Broad, Romero, and then, and then Kammer.

Nemeth
Q. Okay.

Howard
A. And Romero and Kammer were kind of running together and then, just a few seconds after, maybe one--one or two, possibly three seconds after that, I remember seeing Deputy Barrett come down.

Nemeth
Q. Okay.

Howard
A. And they were--they were in and out of the module real fast.

Nemeth
Q. How about Icamen? I mean, you seemed kind of sure that it was him. Where does he fit in, in that parade?

Howard
A. If he would have come down, he would have been behind. He would have been either behind or with Kammer and Romero. Because, I remember Broad coming down. He was a couple of seconds before everybody else or a second before everybody else and then everybody else ran in. I just remember a group--a group of, you know like two to three--

Nemeth
Q. Uh-huh.

Howard
A. --running by.

Nemeth

Q. Okay. All right. So, that's the next question now, is. Well, actually, let me back a second real quickly. When you saw [redacted] and [redacted] coming from 5000, right? They're working 5000 prowl or something that night, is that right?

Howard

A. That's correct.

Nemeth

Q. Okay. Who was in--? Who was in the lead in that group of two?

Howard

A. I--I believe it was--it was [redacted]

Nemeth

Q. Okay. Do you think [redacted] is the one who got to the module first or--?

Howard

A. It--it's a yeah. Well, if he was in the lead, he would have gotten to the module first.

Nemeth

Q. Okay. And that's who you remember coming down first?

Howard

A. Yeah, I remember seeing--I remember seeing [redacted]

Nemeth

Q. Okay.

Howard
A. And I believe, I believe [redacted] was right behind him. They came down together. Yeah.

Nemeth
Q. Okay. All right. Now, getting back to the 9000 people. So, we have Deputy [redacted] and [redacted] are inside module 4400. You say approximately four seconds after you heard the P.A. announcement above which was your first clue that anything was going on. Right?

Howard
A. Yeah.

Nemeth
Q. And, they get there really quick. Four seconds later, they're in there. Now, you're saying, approximately 90 seconds later is when the four and possibly five individuals from 9000 floor get into the module. Is that right?

Howard
A. Yeah. Yeah, that's approximately right, yeah.

Nemeth
Q. Or is that when you first see them, 90 seconds later, coming down the stairs?

Howard
A. That's a good question. Now, I'd--I'd have to say that they were, they were about to the module in about a minute and a half.

Nemeth

Q. Okay. Could it have been as long as two minutes that the four deputies were in the module alone, and that is [redacted] Sloan and Kluth?

Howard

A. That seems--yeah it seems kind of long.

Nemeth

Q. That's at the long end, huh?

Howard

A. Yeah. I--I--I remember that 9000 was there really fast.

Nemeth

Q. Okay.

Howard

A. And, like I said, not fast enough to make me wonder where the rest of the back-up was.

Nemeth

Q. All right, so about 90 seconds, you think is a good sign?

Howard

A. Yeah.

Nemeth

Q. Okay. So, they get there 90 seconds later and then you said something about they were there and left very quickly.

Howard
A. Yeah. They--

Nemeth
Q. Well, how much time do you think. Well, let's see. Who? Did we get to who was going into the module first from the group of 9000?

Howard
A. Broad.

Nemeth
Q. Broad was in first. Followed by whom?

Howard
A. Then Romero and Kammer and possibly Icamen.

Nemeth
Q. Okay.

Howard
A. And then Barrett was the last.

Nemeth
Q. Okay. Now, how long were the first people there, Broad and--and [redacted] I mean, no, Broad, Romero and, and--

Howard
A. Kammer?

Nemeth
Q. Kammer? And possibly Icamen?

Howard
A. I would believe that they weren't in there for more than like 30 seconds, maybe a minute at the high-high end, but I would say they were in there for about 30 seconds because. It appeared to me that right after they walked in, they were walking out and I was kind of surprised. Usually, when you respond to a 415, you're in there for a little bit, so I was under the assumption that it was all code 4 by the time they got there.

Nemeth
Q. Okay. Did anybody show you a four finger code 4, or give you any indication on the radio what was happening in there, anything of that nature?

Howard
A. No.

Nemeth
Q. Okay. So you--you still basically didn't know exactly was going there, right?

Howard
A. Right.

Nemeth
Q. Okay, did--you said Barrett was somewhat behind them. How much behind the initial group of three or four was Barrett?

Howard
A. Just--Just a few seconds, probably like five, maybe six seconds.

Nemeth
Q. Okay. So, you figure he was also in there about 30 seconds, then?

Howard
A. Oh, no.

Nemeth
Q. Maybe a minute at most?

Howard
A. No.

Nemeth
Q. He was there much less than the others?

Howard
A. Yeah. He walked in. He walked in, he was out of my view, you know, for just a couple of seconds and he stepped out and he held the door and, you know, right after he held the door, everybody started walking out.

Nemeth
Q. Anybody else come in?

Howard
A. No.

Nemeth
Q. The four people walked out?

Howard
A. Yeah, everybody. Everybody--all the 9000 prowlers--all the 9000 people had come down. They had left. They had (inaudible).

Nemeth
Q. They left within that 30 seconds to one minute time that you gave us, right?

Howard
A. Yeah.

Nemeth
Q. So, Barrett was, if I can describe this correctly, and let me try to put this all together. You're in the booth. You saw Sloan come up approximately 10 or 15 minutes before you hear an announcement on the floor above you saying something about a 415. Is that right?

Howard
A. That's correct.

Nemeth
Q. Okay, did the announcement say anything that deputies were involved or anything of that nature?

Howard
A. I don't remember.

Nemeth
Q. Don't remember?

Howard
A. No.

Nemeth
Q. Okay. And, the next thing you know, about four seconds later, after hearing that, [redacted] and [redacted] are already inside module 4400. Correct?

Howard
A. Yeah, they were down really fast.

Nemeth
Q. Okay. Did you hear the door clicking or anything like that ahead of time? What would be the one gate or the main door that leads into lobby 4400. Did you hear the electronic release activating off and on.

Howard
A. I don't remember.

Nemeth
Q. Don't remember? Okay. So, [redacted] and [redacted] are in the module and they're there, you say, for about 90 seconds. The next thing you remember is Broad coming down the escalator followed closely by Romero and Kammer and possibly Icamen.

Howard
A. Possibly Icamen, yeah.

Nemeth
Q. And they come down, they get in a module and then just steps behind them is Barrett, so that group of three or four from 9000 floor, which is again Broad followed by Kammer and Romero and possibly Icamen, go into the module and they're there for, and they're then followed a couple of seconds behind by Barrett.

Howard
A. Yeah.

Nemeth
Q. Barrett sticks his head in for just a couple of minutes or he's out of your sight for just a few seconds, you said.

Howard
A. Just a few seconds, yeah.

Nemeth
Q. He turns around and starts holding the door open and then 30 to 60 seconds later, the other three or four individuals from 9000 who--Romero, Kammer, Broad and possibly Icamen, they then leave. Is that correct?

Howard
A. That's correct.

Nemeth
Q. Does Barrett leave with them?

Howard
A. Yes.

Nemeth
Q. And where do they go, then, when they leave?

Howard
A. They started to leave the floor and go back up to 9000?

Nemeth
Q. Back the same way they came, up the escalators?

Howard
A. Yeah, and I stopped Broad and asked him what was going on and he told me that there was a fight in the module, but everything was code 4 and that's when I notified my sergeant and my prowlers.

Nemeth
Q. Okay, at that point, did he tell you who was involved in the fight or he just said "a fight."

Howard
A. Just "a fight."

Nemeth
Q. Okay, did you know a deputy had been involved at that point?

Howard
A. No. I didn't find that out until later.

Nemeth
Q. So you still had no idea that a deputy had been involved in a fight on the floor. And I'm not saying it's any fault of yours, but that's the case, correct?

Howard
A. That's the case. No, I did not know.

Nemeth
Q. Okay. All right, so then Broad leaves after talking to you?

Howard
A. Yes.

Nemeth
Q. And he was the only one that talked to you or did the other people--?

Howard
A. Yeah, he's the only one that talked to me. Everybody else left.

Nemeth
Q. They didn't even come inside your control booth area.

Howard
A. No, they went upstairs.

Nemeth
Q. Okay. So, then Broad tells you that and then he leaves also?

Howard
A. Yes.

Nemeth
Q. Okay. So, now, who is in the module? The same four people, Kluth, Sloan, [redacted] and--

Howard
A. --and [redacted]

Nemeth
Q. --that's it?

Howard
A. Yes.

Nemeth
Q. Was there anybody from 4000 floor there?

Howard
A. No.

Nemeth
Q. Other than Kluth is the only one assigned to 4000, correct?

Howard
A. Right.

Nemeth
Q. Of that group? Okay. Nobody else from 4000?

Howard
A. No.

Nemeth
Q. All right. How much time transpires between the time that those four individuals are in the module alone and the next person comes to the module?

Howard
A. Well, the next people that came to the module were my floor prowlers and it was--

Nemeth
Q. Who were they again?

Howard

A. That was Deputy [redacted] and Deputy Christolon and Senior Jackson was with them.

Nemeth

Q. Okay. They all arrived together?

Howard

A. They all arrived together from the elevators--

Nemeth

Q. Okay.

Howard

A. --from downstairs and it--it was at, you know, two, three minutes before...

Nemeth

Q. Two or three minutes separating the time when the 9000 people had left and when the 4000 people are getting there, is that right?

Howard

A. That's correct. Yeah.

Nemeth

Q. So, Sloan, [redacted] Kluth and [redacted] are in the module alone for three minutes approximately? Is that right?

Howard

A. Yeah, three minutes on the high, on the high end.

Nemeth

Q. Okay. And--

Howard
A. I do remember contacting Sergeant Mosley, but I do not remember when he walked in the module. I don't know if it was in, in between that time or after the prowlers got in.

Nemeth
Q. Okay. All right. Did you--? How did you contact Sergeant Mosley?

Howard
A. I called him on the phone. He was in the sergeant's office.

Nemeth
Q. Okay. The sergeant's office where?

Howard
A. On 4000 floor.

Nemeth
Q. And that's--is that essentially right around the corner from where you were at?

Howard
A. Yeah. It's just--

Nemeth
Q. One or two doors to the left or something?

Howard
A. That--no, yeah. It's a--it's just a couple of doors down--down the hallway.

Nemeth
Q. And in correlation with where module 4400, where is that sergeant's office?

Howard
A. It's about--it's about 15 feet down the hallway, more towards the center of the whole floor.

Nemeth
Q. From 4400?

Howard
A. From 4400.

Nemeth
Q. So, 15 feet away and on the other side of the hallway. Is that right?

Howard
A. Right. That's correct.

Nemeth
Q. Pretty close, basically. Right?

Howard
A. Yeah.

Nemeth
Q. Essentially right across the hall?

Howard
A. Yeah.

Nemeth
Q. Okay. So, you contacted Mosley by phone and found him in there. Is that right?

Howard
A. That's correct.

Nemeth
Q. And you did that after you called the prowlers from the officers' dining room?

Howard
A. I--I don't remember whether it was before or after, but I know that I contacted both of them.

Nemeth
Q. One right after the other?

Howard
A. To let him know that we had a--we had a fight on the floor.

Nemeth
Q. Okay. You nodded your head. So, did you notify them one after the other?

Howard
A. Yes.

Nemeth
Q. Okay. So, otherwise it won't show up on the record.

Howard
A. I'm sorry.

Nemeth
Q. All right. So, okay, you did that and did you, how did you notify the prowlers? By radio?

Howard
A. Yeah. In fact, if I remember right, I think I called the prowlers on the radio and asked them to call the booth and when he called the booth from the officers' dining room is when I told him that there was a fight on the floor and he needed to get back up here.

Nemeth
Q. Who were you talking to on the phone?

Howard
A. Deputy [redacted]

Nemeth
Q. Okay. Is there a reason why you chose to notify him in that manner?

Howard
A. A lot of times when you notify somebody over the radio where there's been a fight, you're going to have 42 million people coming up to the floor trying to see what's going on and find out what's happening and it's just--it was just easier to keep it quiet, more towards everybody on the floor.

Nemeth
Q. Right. You didn't want to further complicate the matter--

Howard
A. Right.

Nemeth
Q. --So that's why you had him give you a call where you could explain to him in some degree of confidentiality, right?

Howard
A. That's correct.

Nemeth
Q. Okay. And then he shows up and did the sergeant show up before or after [redacted] and Senior Jackson and Deputy Christolon showed up?

Howard
A. That's what I can't remember.

Nemeth
Q. Can't remember?

Howard
A. I remember him walking--walking down the floor towards 4400. I--I would have to lean more towards. Actually, I don't know. I don't remember it all.

Nemeth
Q. Okay.

Howard
A. I'd hate to say something one way or the other, not being sure.

Nemeth
Q. All right. Now, when Deputy, Deputy Broad, backing up a for a minute, when Deputy Broad, oops we're gonna run out of tape here, I think in a second. When Deputy Broad told you, stopped by the module on his way out and off the floor. Enroute, returning back to 9000, correct?

Howard
A. Yeah.

Nemeth
Q. He stopped in the booth to talk to you, tell you what happened?

Howard
A. Yeah. I kind of motioned for him to come in and tell me what was going on.

Nemeth
Q. Okay. So, he didn't do it voluntarily. You indicated for him to come in?

Howard
A. Yeah.

Nemeth
Q. And he came in and told you. I think you said you still didn't know that a deputy had been involved--

(Side "A" of Tape 1 ends at this point.)

Nemeth
Q. All right, we're continuing with Deputy Howard's interview. You were just starting to answer a question and we cut off. Let me regress for a minute to make sure we get it all on here. The question was, when you indicated for Deputy Broad to step in the booth and tell you what had happened, that I asked you did he tell you that deputies were involved, because I had previously asked that question and you said, "No," you hadn't known a deputy was involved and now you were starting to say you think what?

Howard
A. That I think he might--might have said Kluth--Kluth got into a fight and-- I think he might have said that, that Kluth got into a fight. I said, "Is everybody all right?" And, he said, "Yeah, it's all--it's all code 4," and then he went up back to 9.

Nemeth
Q. Okay.

Howard
A. He might have made a comment about, "Did you put it out on the radio?" which would indicate that I announce it over the radio. 'Cause I remember him--I remember him kind of complaining about that, because they didn't know where--where the fight was, so they were wondering who, who put it out on the P.A. I don't know if it was during that time or if it was after that time.

Nemeth
Q. Okay.

Howard
A. That he was complaining about it to me.

Nemeth
Q. All right, so just to get it clear. You never broadcast a 'deputy-involved or disturbance' of any kind on the radio, right?

Howard
A. No, I did not.

Nemeth
Q. You never broadcast on the P.A. any type of disturbance of any kind, is that right?

Howard
A. No, I did not.

Nemeth
Q. And you never called main control and told them there was any kind of disturbance on 4000 floor, correct?

Howard
A. That--That's correct. No, I didn't call.

Nemeth
Q. Okay. And, just to recap. I think the reason for that is, you didn't know what was going on until you called Deputy Broad in to find out. Is that correct?

Howard
A. That's correct.

Nemeth
Q. So, in other words, nobody in that module made any effort to telephone you at any point. Correct?

Howard
A. That's correct.

Nemeth
Q. Okay. Now, when you---We were talking about Deputy Broad and the others from 9000. You were remembering that they were inside the module for 30 to 60 seconds before they came out. Is that right?

Howard
A. Yeah, it was a very. It was a very short period of time.

Nemeth
Q. Okay. And now you're talking to Deputy Broad after that short period of time that he and the others from 9000 were in the module. And what did he tell you about what--what had taken place in there?

Howard
A. Well, he said. I think, I think all I can remember is that he said that Kluth had got into a fight and I asked if he was all right and he said, "Yeah," and it--it ended there. I--I'm not sure if my prowlers, no there's, there was nobody inside the booth with him and my prowlers came up on the floor so I think Broad just, just left--

Nemeth
Q. Just you and Broad in the booth at this point, right?

Howard
A. Yeah.

Nemeth
Q. Now what did he tell you in terms of what kind of force was being used? I mean an inmate assaulted a deputy, that's pretty serious. Wouldn't you agree?

Howard
A. Yeah. But I was, I was really concerned in notifying my sergeant, notifying my prowlers and then, you know, I--I said, I don't know what happened so I have to get the eyes and ears that can actually walk around and get them up (inaudible).

Nemeth
Q. You're stuck in the booth, right?

Howard
A. Right.

Nemeth
Q. And security rules say you can't leave that booth under any circumstance, right?

Howard
A. That's correct.

Nemeth
Q. Or at least you can't leave it empty, right?

Howard
A. That's correct.

Nemeth
Q. Okay, so you weren't able to go to that module at all that night, were you?

Howard
A. No, I was not.

Nemeth
Q. Did you ever see the inmate in the module or anything of that nature?

Howard
A. Not in the module. I saw him after they put him on the gurney to take him downstairs.

Nemeth
Q. Okay.

Howard
A. And they rolled him by the booth.

Nemeth
Q. Okay, so you never saw any force being applied to this inmate then, did you?

Howard
A. No, I did not.

Nemeth
Q. And you never touched this inmate personally, did you?

Howard
A. No, I did not.

Nemeth
Q. Okay. So, you didn't know what exactly happened in there, right?

Howard
A. That's correct.

Nemeth
Q. Other than from what Broad told you, right?

Howard
A. That's correct.

Nemeth
Q. And, now, as we're sitting here today, I want you to remember. When you first asked him what happened and he says, "Well, there was a fight. An inmate got Kluth," some kind of a, grabbed Kluth, or something. I think you said, just kind of a hold or something?

Howard
A. I didn't--I didn't hear about that until after everything was pretty much over and that's when. I don't remember who told me what, you know, we had talked about what exactly had happened.

Nemeth
Q. Okay. And who were you talking with at this point?

Howard
A. I would have to say that it would be Deputy [redacted] and Deputy Christolon, because they--this was after--after the inmate was already taken care of and all the paperwork was read and written.

Nemeth
Q. Some hours later, but that same night or morning, that same early morning?

Howard
A. Yeah, from what I understand what happened, the inmate was refusing to lock down, to go inside his cell and Kluth went out to talk to him and tell him go inside his cell and he just came running at Kluth and they--they--I--yeah he came running out, Kluth, and he grabbed Kluth and then they started to struggle a little bit and then, from what I understand, the inmate put Kluth into a headlock and I'm not sure, you know, what happened after that.

Nemeth
Q. Uh-huh. Okay. Well, let's go back to that. Those comments were told to you, you said, by [redacted] and/or Christolon, right?

Howard
A. Yeah.

Nemeth
Q. Let's go back to Broad, when you were talking to Broad. This is still as the incident's just--

Howard
A. Just happened.

Nemeth
Q. --unfolding or whatever. You said Broad told you that there had been a fight between an inmate and Deputy Kluth and that it's code 4 now. Did he tell you, you know, that they took care of it. That the

guy's hobbled up or handcuffed or secured or anything of that nature?

Howard
A. No, he just said that everything was code 4.

Nemeth
Q. Okay.

Howard
A. And, like, like you said, that could be a number of things. He could have been handcuffed, could have been hobbled up. I don't know, but I would-- under the assumption that since it was code 4 that he was handcuffed in the module.

Nemeth
Q. Okay. But he didn't say anything about that?

Howard
A. No, he didn't indicate.

Nemeth
Q. He just said code 4.

Howard
A. He said it was code 4. I--I asked him. No, he--he--he--no--he told me that--that Kluth got into a fight, but he didn't really know what happened.

Nemeth
Q. Okay.

Howard
A. And they--they--they acted like they were concerned about getting up to 9000.

Nemeth
Q. They wanted to get out of there and get back to their floor?

Howard
A. Yeah, it--you know, if it happened around 1:00 in the morning, around that time, they were in the middle of count.

Nemeth
Q. Uh-huh.

Howard
A. So, there's a good possibility that that's the reason why they had to get back up there.

Nemeth
Q. Okay. Now, did you talk to any other people that responded. I think you said the only person you talked to, at least at that point, was Broad, right?

Howard
A. Yeah. That's correct.

Nemeth
Q. All right. Did Broad tell you what force he used on the person, if any?

Howard
A. No. He said that it was code 4 when they got there.

Nemeth
Q. So now, is that what he said? Because, see, you didn't say that a minute ago. A minute ago, you were saying. You, said it's all code 4 now, indicating as they're leaving afterwards.

Howard
A. Okay, well, he--he--he indicated that it--that it was--it was code 4. Okay, yeah, you're right. He indicated that it was code 4.

Nemeth
Q. Referring to the present time?

Howard
A. Referring to the present time?

Nemeth
Q. You're now saying it's code--it was code 4, right?

Howard
A. And I--I assumed that since they were in and out of there so fast that it was code 4 when they got there, that he was already cuffed up.

Nemeth
Q. All right, that's your assumption. But, let me ask you this. Did Broad tell you that he used force on this inmate?

Howard
A. No, he did not.

Nemeth
Q. Did he tell you that any other people that he came in with? I'm just talking about people from 9000, used force on this inmate or assisted in handcuffing. I mean, you know--that is, when I say force, I'm not talking about punching or kicking or kneeing or anything of that nature. I'm talking about, you know, the Manual's definition of force which means overcoming resistance offered by another to bring them into custody.

Howard
A. No. The only thing that he told me is that Kluth had been in-- Kluth had been in a fight and everything was code 4.

Nemeth
Q. Period.

Howard
A. And I asked him, I said, "Everybody was all right?" And he said Kluth had been in a fight and I said, "Is everybody all right?" He said, "Everything's okay. Everything's code 4," and then it was, "See ya," and he went back up to the floor.

Nemeth
Q. Okay. All right. You know, I'm not trying to put words in your mouth or anything, but--

Howard
A. No, I understand.

Nemeth
Q. --having worked Central Jail, albeit many years ago, you know, having been in similar situations and I know the executives who review this transcript or listen to this tape also have been in similar situations, albeit some years ago. It is possible, at least, in my past experience it's come up where similar circumstances a person comes in, I mean, an inmate has attacked a deputy. Pretty serious event. Probably doesn't get much more serious in a custody situation and the inmate force is necessary to subdue the inmate. Well, sometimes, I'm trying to say, "Yeah, we kicked his ass," or "We took care of it," or something like that. Any comments along those lines made to you?

Howard
A. No.

Nemeth
Q. Nothing like that?

Howard
A. No comments like that at all. I didn't hear of anything from anybody that was--that was not within the guidelines. I didn't hear any comments. You know, like "He put the boot to him," or anything. I didn't hear anything like that.

Nemeth
Q. Okay. Did you hear any, that, you're talking about that, at that point, that we're talking about, right? Right after the incident?

Howard
A. At that point. Yeah.

Nemeth
Q. Now, later that night, as, you know, your de-briefing yourselves about what had happened. You're talking with [redacted] and Christolon, tell me what you heard then.

Howard
A. And, I--I still at that point, I'm--I also remember talking to [redacted] later on that evening and I didn't hear of anything that was a-- I didn't hear of anything that was, you know, that was done that was bad. I--I can't off-hand remember what [redacted] told me, but I believe that a-- No, I can't--I can't remember if he told me that when he came in, that the inmate still had Kluth in a headlock or if Kluth had just gotten out of a headlock, and that they helped him cuff--cuff him up. I do remember him saying that they helped cuff him up.

Nemeth
Q. And this is [redacted] you remember saying that?

Howard
A. Yes. Deputy [redacted]

Nemeth
Q. And this is what? Later that same--that same morning?

Howard
A. Well, that, yeah, yeah. That was later that same morning.

Nemeth
Q. Okay, did you talk to any other participants?

Howard
A. No.

Nemeth
Q. Just [redacted] and Broad?

Howard
A. Yeah.

Nemeth
Q. [redacted] and Christolon, they weren't actual participants in the event. They showed up there later.

Howard
A. Right.

Nemeth
Q. But you had already been told three minutes before that it was Code 4 by Broad, right?

Howard
A. Right.

Nemeth
Q. I'm talking about of the people from that participated in the actual subduing of this inmate. Did you talk to anybody besides Broad and [redacted]

Howard
A. No.

Nemeth
Q. Never talked to Kluth about it?

Howard
A. Not that I remember off hand, right now. I don't remember talking to Kluth. It's a possibility I could have talked with him later on the phone, but I don't remember. I don't remember it today. It's been a while.

Nemeth
Q. Uh-huh.

Howard
A. I--I really--I don't remember right now.

Nemeth
Q. Okay. Did you maybe talk to him to see if he was okay or what his injuries were or something like that?

Howard
A. Maybe--it's a--it's a good possibility.

Nemeth
Q. Uh-huh. But you don't remember right now as we're here today.

Howard
A. No. Uh-uh. I don't remember right now.

Nemeth
Q. Okay.

Gjendem
Q. I think that one time you said that you don't remember him telling you anything bad that happened inside the module with the inmate.

Howard
A. Yeah. I don't remember any comments, you know like, "We kicked his ass" or anything like that.

Gjendem
Q. Well, how many comments that were good? Do you remember anybody saying anything like that? We had a hard fight with the guy. It was a real struggle. It was a knock-down, drag-out. Anything like that?

Howard
A. No, not off-hand.

Nemeth
Q. Not off-hand?

Howard
A. All--all I can remember at this time was just what Broad said about everything was code 4 and [redacted] making a comment that they just helped cuff him up. I really--I really don't remember anything. Anything that happened later on after that.

Gjendem
Q. The deputies that are assigned on 4000 in the modules there. If they have to write paper, where would they write it at? Write it in the 4000 booth?

Howard
A. Actually, in their module is where they usually write it.

Gjendem
Q. In their module?

Howard
A. Yeah.

Gjendem
Q. If they had a force incident like that though, wouldn't they want to get together and compare notes, say, "Hey, I grabbed a hold of this leg," or grabbed that leg or whatever the case may be. Do they go somewhere where they can talk about what they actually did. And, if so, would it be the 4000 booth.

Howard
A. You know, I think. I kind of remember something about [redacted] going in and relieving Kluth so he could write that paper, and I-- He didn't go--they didn't go into the control booth, that I remember. They didn't write it in there. They either wrote it down in the briefing room.

Gjendem
Q. You're saying they. Who are you speaking of?

Howard
A. I was thinking of Kluth and Sloan.

Nemeth
Q. Uh-huh.

Howard
A. It's a possi- It's a possibility they could have written it either, either down in the briefing room. I know, I do remember that they, they weren't in the booth. Kind of hazy when you remember they weren't in the booth. It was still-- It was a long time ago.

Gjendem
Q. Getting over to the senior and sergeant, you said you seen the senior go inside?

Howard
A. Yeah, the senior walked in with--with Christolon and with [redacted] They all walked in together.

Gjendem
Q. Okay. And how long was the senior in there? Did he remain in there for a long time?

Howard
A. I don't remember.

Gjendem
Q. Was he in there when the sergeant arrived?

Howard
A. It's like--I don't remember. I don't remember when the sergeant went in. I remember him walking down the hallway, but I don't remember when, where he'd fit into the timeline. I don't remember that.

Gjendem
Q. You don't know if he even went in before [redacted] and Christolon and the senior, then?

Howard
A. I don't--I don't believe so. I think he went after, but I'm--I'm not 100 percent sure on that.

Gjendem
Q. The public address system. If you were in the sergeant's office on 4000, would you hear a public address announcement from the 4000 floor?

Howard
A. A lot of times, no, because you're not--

Gjendem
Q. Why is that?

Howard
A. I--I don't believe there's a speaker in there. And, sometimes if they have the door open, they'll hear what's going on over the floor and just from the floor. Like, if they have the door closed, I don't believe they can hear in there.

Gjendem
Q. Is that door generally closed?

Howard
A. Yes, it generally is closed.

Gjendem
Q. And, once again, you saw [redacted] and [redacted] coming running down the escalator, right?

Howard
A. Yeah.

Gjendem
Q. When they were running down the escalator, were they running full blast or just kind of skipping/scampering?

Howard
A. Oh, they were--they were running full bore.

Gjendem
Q. They were going somewhere to do something?

Howard
A. Well, yeah, it seemed like. Apparently, they knew it was a deputy-involved 415. Yeah, and you'd be running full bore.

Gjendem
Q. And you still hadn't heard anything on the P.A. system, though?

Howard
A. Not from five, no.

Gjendem
Q. Not from anywhere?

Howard
A. No.

Gjendem
Q. At anytime did anybody ever relieve you in the booth so you could walk down to 4400?

Howard
A. No. I'm--

Gjendem

Q. --I know you're [redacted]

Howard

A. But when I'm, when I'm [redacted] and working this facility I try and stay away from the inmates as much as possible and the majority of the inmates housed on that floor are either mental observation patients or they're, they're pill call patients. They have some medical reason why they're on the floor. I definitely try and stay away from them. I just didn't.. don't want to catch anything, don't want to be involved in anything. Self-preservation if--you might say. (laughs)

Gjendem

Q. And I think you answered this question, I'm not positive. Do you know how the deputies from 9000 were notified of the fight?

Howard

A. Yeah. I, I heard later that they overheard the P.A. on five and yeah, they heard there was a 415 and that's how they, they came down. The P.A. system on five is, is loud and especially if you talk into it real loud, you can hear it on both floors.

Gjendem

Q. All right. Did [redacted] ever stop and tell you about any force that they had used?

Howard

A. No. No--nobody specifically told me about any force that had been used. No.

Gjendem

Q. How about Barrett, Broad, [redacted]

Howard

A. No.

Gjendem

Q. No.

Howard

A. No--nobody from 9000 told me about any force that had been used. I guess you could say cuffing. [redacted] told me that they helped cuff him up and that would be the extent of the force that I heard about.

Gjendem

Q. Did you tel--tell you how that transpired? How they got the cuffs on him or anything?

Howard

A. No. And I believe that they put him in a hobble afterwards also. But I didn't hear about that I saw the inmate in the hobble when he came out of the module. It's a possibility that, that [redacted] could have said that they hobbled him also.

Gjendem

Q. Leaving the module, who were the first persons to leave that module? The 9000 deputies?

Howard

A. Oh, yeah. I thought you were asking about the, the deputies that were involved. Yeah, the first people to leave the module were the 9000 deputies.

Gjendem

Q. And that would have been Barrett, --

Howard

A. --Kammer and Broad and Romero and (inaudible). Yeah. Possibly Icamen--

Gjendem

Q. --Icamen. If he was there.

Howard

A. If he was there, I'm not, I'm not sure if he was there.

Gjendem

Q. And, and who left next after that?

Howard

A. A number of the oth--probably Senior Jackson. I remember the inmate coming out on a gurney and Senior Jackson next to the gurney. Kluth was next to the gurney also and I, I believe that [redacted] was reliving him at the--in the module. And I, I think Sloan was out in the hallway also. So they, they were ready to transfer the inmate down to the clinic.

Gjendem

Q. You never saw any clinic personnel or any deputies from the clinic come up with the gurney when it came out?

Howard

A. There, there had to be a deputy, but I don't, I don't remember seeing one right now.

Gjendem
Q. Any nursing staff?

Howard
A. They--yeah, I remember seeing a nurse--I remember seeing somebody in white with the dark hair which could have been anyone, but I don't remember who it was.

Gjendem
Q. Okay.

Howard
A. 'Cause they should of--if the gurney came up there should have been the clinic trustee, clinic deputy and then the nurse, also.

Gjendem
Q. When Barrett and Broad and Kammer left the module and were walking down the hallway there, and you called over Broad to talk to him, what was the condition of Broad? Was he huffing and puffing?

Howard
A. No. No. They--

Gjendem
Q. How about his clothes?

Howard
A. They were squared away just like they always are with him.

Gjendem
Q. Did he have any blood on him?

Howard
A. No. I didn't see any.

Gjendem
Q. How abut Romero, did he have any blood on him?

Howard
A. No. No--nobody.

Gjendem
Q. Barrett?

Howard
A. Nobody looked like, like they, you know were huffin' and puffin' or red in the face or anything. Well Barrett, Barrett was just kind of casually--he came down very casually from 9000 and he casually walked into the module real quick and casually stood there by the door. He didn't, he didn't run or--

Nemeth
Q. So he wasn't running like the others from 9000?

Howard
A. No. He just kind of casually came, you know, jogged down into 44. I guess he figured that things had been taken care of already.

Gjendem
Q. At some time when these deputies were down there inside 4400, did you try to call 4400 to see what was going on?

Howard
A. I--I was thinking about that earlier and I think I did, I think I tried to call and either nobody had answered the phone or the phone was busy. Because I think I tried to call to find out what was going on in there to see if maybe I should do something. Call for main control, you know, actually find out what was going on.

Gjendem
Q. Call for a gurney?

Howard
A. Did I call for a gurney?

Gjendem
Q. No, or call for a gurney?

Howard
A. Yeah.

Gjendem
Q. You probably didn't even know that a gurney had been ordered did you until you saw one coming up there?

Howard
A. I might have even called for the gurney, I don't know. I don't remember that part.

Gjendem
Q. No disheveled looks on any of the deputies that you saw?

Howard
A. Disheveled looks, no.

Gjendem
Q. On the--

Howard
A. --Kluth.

Gjendem
Q. Kluth?

Howard
A. Yeah, I remember seeing when he walked out--I remember his neck was kind of red.

Gjendem
Q. Where on his neck?

Howard
A. The part that I saw was directly in the front across his windpipe.

Gjendem
Q. Okay. Was there some blood on it or?

Howard
A. No. It just--it looked like--it was just redness of the skin. I assume because he--the inmate tried to put him in a headlock, so I would assume it was from that. But at, at that time I still really didn't know what had transpired in the module.

Gjendem
Q. Since October 27, 1994, did you talk about this incident with any of the deputies up until this date?

Howard
A. No.

Gjendem
Q. You didn't talk to any of them about this incident?

Howard
A. I--

Gjendem
Q. --Kluth?

Howard
A. No. I haven't, I haven't seen Kluth since he left the facility. I saw, I saw [redacted] and I asked him what was going on with the case. This was before I found out that you guys were re-investigating. And he said, he said that he heard that they, they filed criminal charges but the D.A. rejected it. He said he was just waiting to hear what was--what else was going on. I saw him at a party. And that's the ex--extent of that. I haven't talked to anybody since I knew you guys were re-investigating it.

Nemeth
Q. Was it a transfer party or something?

Howard
A. No. Deputy Christolon just had parties there two or three times a year...

Nemeth
Q. Oh.

Howard
A. ...when all of our families show up and it's just kind of like a, "Hey, how are you" party.

Nemeth
Q. Anybody else from this incident there? Besides [redacted] and yourself?

Howard
A. Oh, from this incident? No.

Gjendem
Q. Did your sergeant ever come in the booth and explain to you what was happening?

Howard
A. He was pretty busy and I don't remember him saying anything.

Gjendem
Q. Did the senior ever come in a group and say anything to you? About what had happened down there? After all, that's his floor.

Howard
A. It's, it's a, it's a possibility that we talked about it when [redacted] and Christolon were there, you know, that the senior was in there also, but I don't specifically remember him talking about it.

Gjendem
Q. Do you know what the senior did that, that day as far as the incident goes?

Howard
A. I, I know that he, he walked--I believe--I know that he walked at least to the elevator landing with the inmate, I think he even went downstairs to the clinic with the inmate.

Gjendem
Q. The senior did?

Howard
A. Yeah.

Nemeth
Q. Okay. My partner was just asking you about the, the physical appearance of the deputies from 9000 and then also Kluth. How about Sloan, [redacted] or [redacted] did you notice their physical appearances?

Howard
A. No. No I really don't remember.

Nemeth
Q. You don't remember. You don't remember one way or the other whether they looked, you know, their uniforms looked in order or whether they were slightly disheveled or?

Howard
A. Yeah, I don't remember.

Nemeth
Q. Either way?

Howard
A. Either way.

Nemeth
Q. Did you notice any of the deputies' shoes that night? Their boots, their shoes or whatever they were wearing on their feet?

Howard
A. No.

Nemeth
Q. So you don't know whether they were scuffed or whether they were wearing soft toe or hard soled shoes or what they were wearing, is that right?

Howard
A. Yeah. I, I wouldn't, wouldn't have noticed the boots at all.

Nemeth
Q. Okay. All right. Now, let me ask you this. After you were interviewed last time, did deputies Broad or Romero or Kammer or Barrett come to you and say, thanks for getting me involved in this mess or anything like that?

Howard
A. No.

Nemeth
Q. You haven't had any problem with pressure from anybody?

Howard
A. No.

Nemeth
Q. Okay. Did you ever read any of the crime reports that were prepared in conjunction with this incident?

Howard
A. You mean the--

Nemeth
Q. --police report that was written?

Howard
A. The, the 49 that was written from the floor?

Nemeth
Q. Right, uh-huh.

Howard
A. I can't remember off hand but it's a possibility that I might have.

Nemeth
Q. How about the use of force forms?

Howard
A. No. I don't remember seeing any of the use of force forms.

Nemeth
Q. How about the supplemental reports, crime reports?

Howard
A. I didn't even know there was any filed, so, no.

Nemeth
Q. Okay. All righty. Well, did you ever notify the sergeant or the senior that those deputies from 9000 had been present and had left prior to the arrival--prior to the sergeant's and senior's arrival?

Howard
A. I, I kind of faintly remember talking to Sergeant Mosley about it and that if--he's, he's pretty thorough with things and if he was--if he--

Nemeth
Q. --Who Mosley?

Howard
A. Yeah. Sergeant Mosley is very thorough with things and so I would have told him exactly what I sa--what I had seen.

Nemeth
Q. Well, do you remember doing that?

Howard
A. I, I don't remember specifically telling him, no.

Nemeth
Q. So you think--you probably did, but you don't remember doing it?

Howard
A. Yeah. Because like I said he's pretty thorough with things and he usually asks anybody involved, or even hear, see or anything, you know, what went on and I would have told him what had transpired.

Nemeth
Q. Uh-huh. Okay. Well, let me say this, there's no indication in any of the reports written by Sergeant Mosley or either of the four deputies that were there initially, Sloan, Chap or [redacted] Kluth or [redacted] or Sergeant Mosley. There is no indication anywhere amongst any reports that Kammer, Broad, Barrett, Romero and possibly Icamen were there.

Howard
A. Probably because-- I don't know, maybe they didn't have anything to do with it. I mean, if they just-- if everything was code 4 by the time they got there, that's a possibility why they didn't put them in their report.

Nemeth
Q. Uh-huh.

Howard
A. But I don't know. I--like I said, I don't know.

Nemeth
Q. Uh-huh. Okay. So you don't remember telling the sergeant you assume that just based on procedure you would have told him, and based on our past experience with Sergeant Mosley being real thorough and always asking everybody what they know--

Howard
A. --Yeah--

Nemeth
Q. --You think that's--you would have told him, but by virtue of the fact that nothing's mentioned in there, you don't, you don't know why it wasn't there?

Howard
A. Well, if he didn't mention anything about it, then I probably didn't tell him.

Nemeth
Q. Okay.

Howard
A. Because he's usually very thorough.

Nemeth
Q. Okay. And then--okay. And that means that you didn't voluntarily mention it to him, without him asking?

Howard
A. But we didn't talk about it. I do, I do remember he was busy because there was a lot of paperwork the sergeants have to fill out after there is a force incident.

Nemeth
Q. Uh-huh. Okay.

Howard
A. If it wasn't put in the 49, I don't know.

Nemeth
Q. All right.

Gjendem
Q. Do you remember the watch--who the watch commander was that early morning shift?

Howard
A. No, I don't.

Nemeth
Q. If we told you it was Sergeant Duncan who was acting as watch commander, does that ring a bell?

Howard
A. No. It's very likely that he wa--that he was the watch commander. I didn't see him up on the floor.

Nemeth
Q. Did you--that was our next question. Did you ever see him respond to the floor?

Howard
A. No. I didn't see him on the floor.

Nemeth
Q. Sergeant Duncan. And you know what Sergeant Duncan looks like, right?

Howard
A. Yes.

Nemeth
Q. And you never saw him go up there?

Howard
A. Not that I remember.

Nemeth
Q. Okay.

Gjendem
Q. Do you know if he was ever notified?

Howard
A. Oh yeah, he should have been. Well--I don't, I don't--

Gjendem
Q. No. Do you know if he does?

Howard
A. No, I do not know if he was ever notified.

Gjendem
Q. You never notified him?

Howard
A. No, I did not notify, it's not usual in our procedure to do so.

Gjendem
Q. It's not your normal function, right?

Howard
A. That's correct.

Nemeth
Q. Okay.

Gjendem
Q.

Nemeth
Q. Anything else you want to add that we haven't asked you regarding this incident that you feel is important?

Howard
A. No.

Nemeth
Q. Okay. Well, if you think of anything or if you have any questions, we'll leave you our business card. We'll conclude the interview. Time is 0005. And it's now Tuesday, November 14, 1995. Conclude the interview now.

END OF INTERVIEW

ADMINISTRATIVE RIGHTS/SWORN WITNESSES

NOTE: This admonition is for Department personnel who are being interviewed in the capacity of **SWORN WITNESSES**.

I am SGT. JOHN NEMETH and this is SGT. ERNIE GJENDEM of the Internal Affairs Bureau, which is commanded by Captain ~~Judith A. Lewis~~. NORMAN L. SMITH

You are about to be questioned as part of an official Los Angeles County Sheriff's Department administrative investigation. You are here as a witness in a matter which concerns another employee. The complainant has not filed a complaint against you, and you are not under investigation as a subject in this matter.

Do you have a Policy and Ethics Chapter of the Manual of Policy and Procedures? Yes [X] No [ ]
Are you familiar with its contents? Yes [X] No [ ]

You are hereby advised that the provisions of the Government Code, generally referred to as the Peace Officers' Bill of Rights, do not apply in this instance. You are specifically reminded that Policy and Ethics Section 3-01/040.70 and 3-01/040.75 require that you make true, full and complete statements. Any refusal to do so may result in your discharge or other punitive action.

NOTE: Sworn personnel being interviewed as witnesses only and who are not under investigation or not personally charged with any violation do not have a right to have a representative present during the interview. If it is determined during the interview that the deputy is likely to be subject to discipline, the interview shall be stopped and the deputy shall be advised that his status has changed to that of a subject.

In the event the witness declines to answer questions on the grounds of self-incrimination, the witness/employee shall be readvised of his administrative rights as though he were a subject. **You are being ordered not to discuss the facts of this case or any of the issues discussed during your interview with anyone other than your designated representative or attorney in this matter.**

Initials [CLH]

The above admonition has been explained to me and I understand its contents.

DATE: 11-13-95 FILE NO. [redacted]

Person Interviewed: [signature] CAROL L. HOWARD [redacted]
(Signature) (Print)

INVESTIGATOR: [signature] JOHN A. NEMETH
(Signature) (Print)

DEP. CAROL HOWARD
I.C.I.B. INTERVIEW 12-6-94

WITNESS INTERVIEW

CASE NUMBER 494-00023-2300-444

CAROL HOWARD

Hamilton
Q. Okay, today's date is December 6, 1994, it's approximately 2238 hours. We're here at Men's Central Jail getting ready to interview Deputy Carol Howard, employee number [redacted]. We're going to be discussing an incident that occurred here at Men's Central Jail in module 4400 on October 27, 1994 at approximately 0030 hours. This case is being investigated under ICIB file number 494-00023-2300-444. Okay, Deputy Howard, prior to coming on tape, we briefly discussed the incident that occurred on October 27 in module 44, correct?

Howard
A. Yes, we did.

Hamilton
Q. Okay, did we discuss anything else?

Howard
A. No.

Hamilton
Q. Okay. Were you working on that date?

Howard
A. Yes, I was.

Hamilton
Q. Where were you assigned?

Howard
A. I was the 4000 control booth officer.

Hamilton
Q. Okay. Prior to coming on tape, you mentioned that there

was an incident that occurred in module 4400. If you can, briefly discuss your part in that particular incident, or what you know about that particular incident.

Howard
A. Okay. As I explained to you before, the, the call went out up to 5000 floor, because a deputy had called down into 4000, into 4400 to find out when the Deputy Kluth wanted to be relieved for chow.

Bell
Q. That's the deputy who was working in the booth.

Howard
A. That's correct.

Bell
Q. In that module.

Howard
A. He was the module deputy for that night.

Hamilton
Q. If we can, let's go off tape one second. Okay, we're back on tape.

Howard
A. Okay, the one of the other 5000 prowlers had called down to 4400 to ask Deputy Kluth, who's the module officer, when he would like to be relieved for chow. Right at that moment, Deputy Sloan, who was working watch deputy that night, happened to be visiting Deputy Kluth in 4400. He was, he was relieving Deputy Kluth in the booth, so that Deputy Kluth, Kluth could go out on the row and talk to the inmate that was in question. Anyway, right as, right as the deputy from the 5000 had called down into 4400, Sloan was ready to call me in the 4000 control booth to find out, or to actually ask for backup in the situation. So, Sloan had told the deputy, I can't remember his name, on 5000, what was going on, and it, the call went out on 5000 floor.

Hamilton

Q. Was that the deputy in the booth that he, that he talked to, or was that someone else, a prowler, or...

Howard

A. He was a prowler. He was one of the 5000 prowlers for the night.

Hamilton

Q. Okay, so the person that, I think it's Sloan called upstairs, he spoke to a prowler, or...

Howard

A. Yes, he, he spoke to one of the 5000 prowlers.

Hamilton

Q. ...who happened to be in a booth or somewhere else?

Howard

A. Right. He was in the 5000 control booth. Both of the 5000 prowlers were in the 5000 control booth. Deputy [redacted] was the other 5000 prowler. They responded down to module 4400. At that time, the call went over, went out over the radio. There was a 415 deputy involved in 4400 and I called down to, I called on the radio to contact Deputy [redacted] and I think it was Deputy Kessinger who was working that night as the 4000 prowlers, and had them respond back up the module. They also brought Senior Jackson with them. After I notified our prowlers, I called our Sergeant Mosley and informed him what was going on. Right, right after, kind of need to back track a little bit, right after I saw Deputy [redacted] and the other 5000 prowler run down to 4400, I saw four deputies from, that worked 9000 floor, who had heard the P.A. on 5000 respond down to 4400.

Hamilton

Q. Who were they?

Howard

A. One was Deputy Barrett, the other was Deputy Broad, Deputy Kammer, and I'm not sure of the fourth deputy. Deputy Barrett stood by the 4400 door, holding it open in case there was any other deputies that responded.

Hamilton
Q. Okay, so just to get a clear understanding, you had two deputies responding from the 5000 floor...

Howard
A. Yes.

Hamilton
Q. ...correct? And that was who?

Howard
A. That was Deputy [redacted] and the other deputy's name I can't remember.

Hamilton
Q. Okay, and then you also, they went into the module first, and moments later, personnel from 9000 responded?

Howard
A. Yes.

Hamilton
Q. Okay. Go ahead.

Howard
A. They were in the module for just maybe two or three seconds, and then they came out and, and told me there was...

Bell
Q. Who's they...

Howard
A. That's the...

Bell
Q. ...the one's from 9000?

Howard
A. ...the one's from 9000, all the 9000 floor deputies.

Bell
Q. (Inaudible) to you they entered...

Howard
A. Yes.

Bell
Q. ...turned around, and came right back out.

Howard
A. Yes, and...

Hamilton
Q. Did, did they ever say anything to you when they left or exited?

Howard
A. Well, they stop-, yes, they did. They stopped by the control booth and they told me that, that there was a fight and they said that everything was under control now. I tried calling the module. I'd tried calling the module earlier, right after the first two 5000 prowlers had run downstairs to find out what was going on, and couldn't get through, I guess he was on the phone to the clinic, so I called the module right after that, and Deputy Sloan informed of what, what had happened. And, that's when I notified our prowlers and our sergeant.

Bell
Q. The first time it rang busy?

Howard
A. Yes.

Hamilton
Q. Okay. Any, anybody else responded?

Howard
A. No, no that was it. In fact, I, I think I just said that it went out over the radio, and it did not make it out over the radio. It went out on the P.A. on 5000 floor, and that was it. It never made it out over the radio.

Hamilton
Q. Okay. How do you know that personnel from 9000 heard it over the P.A., or is that just an assumption?

Howard
A. Well, they, they told me that they did.

Hamilton
Q. Okay.

Howard
A. They mentioned that when they came by, that they had heard the, the 415 go out also, because they had asked me if it went out over the radio, and I said no, I never heard it go out over the radio.

Bell
Q. So, the first time it went out over the radio, is when you put it out over the radio to your prowlers?

Howard
A. Right, and I didn't put it out as a 415, I just put it out as, for them to call me immediately, which they did, and I told them over the telephone what was going on.

Bell
Q. Okay, at that point, did you already know it was Code 4?

Howard
A. Yes, I was informed of that by the 9000 prowlers who had come out of the module.

Bell
Q. So, by the time you get hold of your 4000 prowlers, who are elsewhere someplace in the jail, you already know it's Code 4, because the 9000 people have come out and told you it's Code 4.

Howard
A. That's correct.

Hamilton
Q. You mentioned earlier that the deputy was in communication, Sloan was in communication with the deputy upstairs.

Howard
A. Yes.

Hamilton
Q. You didn't find that out until afterwards, correct?

Howard
A. That's correct.

Hamilton
Q. Okay, and who told you that?

Howard
A. Deputy Sloan.

Hamilton
Q. Okay, and that's when you had the conversation, you finally got through and he told you that...

Howard
A. Yeah, he told me that he was about ready to call me, and, and have back up respond when he, he went to reach for the phone and it had rung, and it was the 5000 prowler that had called down at that time.

Hamilton
Q. Okay. Did you see anybody else in there from maybe the old side or...

Howard
A. No, there was no...

Hamilton
Q. ...the other supervisor?

Howard
A. Other than Senior Jackson and Sergeant Mosley, no, there

was no others.

Hamilton

Q. Any deputies make any comments to you, any of the deputies that were involved, I guess, Sloan, Kluth, you mentioned some other deputies from 5000. Did they ever talk...

Howard

A. Deputy [redacted] No, nobody had made any comments, other than, Deputy [redacted] said that when he went into the module that the inmate had Kluth in a headlock, and that, that's about the only comment that was made.

Hamilton

Q. When did he tell you that?

Howard

A. He told me that the following day. We had talked about it. Well, actually, no, it was not the following day, it was later on in that, in that evening. He had come downstairs.

Bell

Q. He got into the module, he saw...

Howard

A. He saw the inmate...

Bell

Q. ...inmate had...

Howard

A. ...had Deputy Kluth in a, in a...

Bell

Q. ...headlock.

Howard

A. ...in a headlock.

Bell

Q. How much time between when the 5000 prowlers enter that

module and when the 9000 prowlers enter the module?

Howard
A. I would have to say that there was no more than 30 seconds that had passed?

Bell
Q. Okay, so they're just a floor above five?

Howard
A. Yes, they are.

Bell
Q. And, they basically heard the same call.

Howard
A. Yes, they did.

Bell
Q. And, so, they just had to come down one more flight of escalators?

Howard
A. Yes, but it seem, it seemed like it had taken a couple extra seconds. It seemed like, like 5000 was down immediately, and then Deputy McGroarty was working the 5000 control booth. He put it out over the P.A.

Bell
Q. Okay...

Howard
A. So, I guess that's why...

Bell
Q. ...and you said you heard this call go out on five...

Howard
A. Yes, I did.

Bell
Q. ...'cause their control booth's right over yours?

Howard
A. Yes.

Bell
Q. So, you knew there was something going on in your module?

Howard
A. Yes.

Bell
Q. And, about that time you look up in the 5000 prowlers are going down your hallway.

Howard
A. Well, that, that call went out from 5000 at approximately the same time that the deputies were entering 4400. The 5000 prowlers were entering 4400.

Bell
Q. Okay.

Howard
A. Because, the, the deputy, I can't remember his name, he was on the phone with, with Sloan, so I would...

Bell
Q. So, Sloan probably yells, call for help for module 4400...

Howard
A. Yeah.

Bell
Q. ...as he is leaving the control booth (inaudible).

Howard
A. Yeah, that's what I assumed happened.

Bell

Q. About the time it goes out, he's probably at least halfway down the escalators to your floor.

Howard

A. And that's why it took a little bit longer for 9000 to respond.

Hamilton

Q. Right. The prowlers were probably already in the booth when he was talking to Sloan, this guy, whoever, in the booth, so he just told them, that more than likely, it's a 415, and that's why everybody run down. That's a copy of the in-service on that particular night, just to kind of refresh your memory, maybe you can look at a list of people that were working that night, and maybe you can identify that second person that responded from 5000 floor.

Howard

A. Yeah, it was Deputy Lucero.

Hamilton

Q. [redacted], and Shaff?

Howard

A. [redacted]

Hamilton

Q. [redacted] Anyone else from that list?

Howard

A. Of 9000, there was Deputy Broad, there was Deputy Barrett, there was, I'm not sure if I saw Kammer there.

Hamilton

Q. Okay.

Howard

A. It was, now I can't remember with 9000. I know, I know I saw Broad, I know I saw Barrett. I'm pretty sure I saw Kammer, and I can't remember who the fourth deputy was.

Hamilton
Q. Okay no problem. Anybody else on that list?

Howard
A. No. There was, there was just really few people that showed up.

Hamilton
Q. Okay, did you notice when you were looking out, where were you standing when you saw these deputies? Were you, what part of the booth were you in?

Howard
A. I was, I was sitting where the computer is, and that will give me full vision down the hallway on each side of the control booth.

Hamilton
Q. Did you see any trusties or inmates around that module?

Howard
A. No, no the, the floor was clear when it went out, there was, there was nobody that I can remember.

Hamilton
Q. You guys still have a floor trusty?

Howard
A. Yeah, but, he wasn't, he wasn't out there at time.

Hamilton
Q. Do you know where he was?

Howard
A. No, I can't, I can't remember off hand.

Hamilton
Q. Just a question, and I know it was a few days ago, so. Did you hear any other comments about what happened as far as the confrontation with the inmate and the deputies?

Howard
A. No, every, everything that-- well there, there's a few rumors flying around, but I didn't hear any of those rumors from the, the people that were actually involved.

Hamilton
Q. Okay, like what?

Howard
A. One of the rumors was that there was a inmate down in the shower, and that he was claiming that ten deputies came in and had kind of beat the crap out of this guy after he was already handcuffed.

Hamilton
Q. Okay.

Howard
A. I mean, I can tell you that there was not ten deputies involved in it. The other rumor that was flying around was that somebody had kicked this inmate in the head after he was handcuffed, and I guess the inmate also had a crushed testicle that he was claiming that happened during the incident, and that's the extent of the rumors that have gone around, but I haven't heard any of those from the people involved.

Hamilton
Q. Is anybody else that we can talk to about this incident?

Howard
A. Other than the deputies that I named, no.

Hamilton
Q. Okay.

Bell
Q. Okay.

Hamilton
Q. Okay, this interview's gonna end at 2254 hours. Also, I forgot to mention that Sergeant Ron Bell and myself, Sergeant

Eric Hamilton are present.

END OF INTERVIEW

DEP. GREG ICAMEN
I.A.B. INTERVIEW 11-16-95

WITNESS INTERVIEW

CASE NUMBER IAB 08383

GREG C. ICAMEN

Nemeth
Q. Okay. Today's date is Thursday, November 16, 1995. Time is 1040 hours. I'm Sergeant John Nemeth from Sheriff's Internal Affairs. Present with me is my partner, Sergeant Ernie Gjendem. We're at Mens Central Jail in the Logistic Lieutenant's Office interviewing Witness Deputy Greg C. Icamen, and Deputy Icamen, I'm going to ask you to spell your last name and, and state your employee number, please, for me.

Icamen
A. Icamen, I-C-A-M-E-N. Employee Number [redacted].

Nemeth
Q. Okay, and Deputy Icamen, prior to commencing this interview on IAB Case No. 008383, I provided you with a copy of your Administrative Rights as a Sworn Witness in this case and explained them to you, and I see you've read the form, indicated yes to the questions, signed your name and initials on the form. Do you understand your rights as a witness in this case, Deputy Icamen?

Icamen
A. Yes.

Nemeth
Q. Okay. Now, I briefly told you prior to going on tape that we're here to talk to you about an incident that occurred approximately a year ago. Actually, it happened on October 27, 1994. Do you remember that night?

Icamen
A. I, the only thing I remember is, there was a commotion on the 4000 floor. The deputies, I don't remember, I only know because people talk, but as far as recollecting that exact night, I remember that I was in the booth and I didn't respond because everyone else did.

Nemeth
Q. Which booth were you in?

Icamen
A. The 9000 control booth.

Nemeth
Q. Okay. What was your assignment that night?

Icamen
A. My guess, I was either, a year ago I was either a Prowl or a Movement Deputy. I remember?

Nemeth
Q. Okay.

Icamen
A. I was up in Prowl--

Nemeth
Q. --Uh-huh--

Icamen
A. --I've had two spots in that floor - Prowl and Movement, about a year ago. I'm not sure when I actually changed over.

Nemeth
Q. Okay. Alright, so you remember that night, you say, because you remember some kind of commotion occurring on the fourth floor, was that the 4000 floor?

Icamen
A. Yes.

Nemeth
Q. Okay, and for the record, I have a copy of the in-service for October 27, 1994, it reflects that you were working 9000 Movement Deputy No. 2. Does that sound familiar to you?

Icamen
A. Yes.

Nemeth
Q. Okay, so is that accurate then--

Icamen
A. --That's accurate.

Nemeth
Q. Okay, and you did not respond then?

Icamen
A. No, I did not.

Nemeth
Q. Okay, this in-service indicates that Hernandez was assigned to work 9000 Control. Is that true?

Icamen
A. Yes.

Nemeth
Q. Okay, where was he?

Icamen
A. My only guess is he was probably on a break. I don't know. What time did the thing occur?

Nemeth
Q. I was going to ask you. Do you have any memory of what time it started?

Icamen
A. I have no idea, I, I have, I don't remember at all. I remember that I was in, standing in the booth, and I remember a deputy going. I heard, I think they heard something, it was either yelling, and they didn't, and then they responded.

Nemeth
Q. Tell me what you heard. Don't tell me what you think--

Icamen
A. --Okay--

Nemeth
Q. --Somebody else heard.

Icamen
A. What I, what I remember hearing is yelling. That's what I remember. I don't remember anything on the radio and then deputies responded. They just, they went out of the booth.

Nemeth
Q. Who, who ran out of the booth?

Icamen
A. To tell you the truth, I don't remember.

Nemeth
Q. Well, look at the in-service here, and see if this helps you out.

Icamen
A. Okay. From talk, I know who actually responded, from people talking.

Nemeth
Q. Okay. Does that match your, does that match your memory or your recollection of the incident?

Icamen
A. All I remember is that I stood in the booth, but I don't remember actually who was working that day or who responded.

Nemeth
Q. Okay, well, this in-service will show you who was working that day--

Icamen
A. --Okay--

Nemeth
Q. --So in combination with this in-service and what you've heard, does that jog your memory, you say, oh, yeah, that's who it was?

Icamen

A. No, it doesn't, because it was such a long time ago. I don't remember who responded, 'cause, I, you know, we, especially on this floor, we have things going off every single day--

Nemeth

Q. --Uh-huh--

Icamen

A. --When, we have, we have disturbances that, maybe two or three a night--

Nemeth

Q. --Uh-huh--

Icamen

A. --So to go back one whole year and to remember one response, I don't remember. But I do remember this particular incident only because it turned out to be something where I know I stayed in the booth and other deputies were under suspicion--

Nemeth

Q. --Uh-huh--

Icamen

A. --Of somethings. So, it, it, I remember it being in my mind and thinking about, you know, people talking and, and people putting under investigation, so it did stay in my memory for a couple months, but then after that I didn't remember who went where, or, but I do remember that I stayed in the booth on that particular incident.

Nemeth

Q. Well, you figured, "I'm lucky I stayed in the booth," huh?

Icamen

A. Yeah, I did, I just went, God, I'm glad I didn't go on that one. Because everyone ran, you know, it would be kind of stupid for everyone to leave at one time, so it's like, I'm going to have to stay.

Nemeth
Q. There is a regulation that says you can't leave the floor control booth unmanned, correct?

Icamen
A. Right, that's correct, and I remember I was the only one staying in the booth, and I would have responded also--

Nemeth
Q. --Uh-huh. Had you relieved Hernandez for a lunch break or something like that?

Icamen
A. I was, I used to relieve the person in the booth now and then, if the guy is working movement control was busy, so I wouldn't, that would be something I, I would relieve the booth person many times, so, usually the movement control person would relieve the booth person, but if I'm bored and I don't feel like working out one day, I'll do it, or the other guy's busy.

Nemeth
Q. Uh-huh. Now, the booth person, there's a bathroom in the booth, correct?

Icamen
A. That's correct.

Nemeth
Q. So, what, what, what incidents require them to be relieved, other than going for their, their lunch break?

Icamen
A. That's, that's it. Unless they need backup in a dorm, the guy working movement control, which is a desk kind of in the middle of the room. If they need more deputies like for a disturbance in any of the dorms, the booth person will go, and movement control will move up to the computer which is control, and then let the other guy be an extra man. Other than break, that's the only time he actually leaves the booth, or to go to the rest room or get something to eat. They're pretty flexible, if a guy wants to leave the booth.

Nemeth
Q. What time does the booth person usually eat dinner, is there a set time?

Icamen
A. My, it, it all depends. We start moving lines right during shift, anywhere between 10 or 10:30, we're moving lines and it continues through the night. Most of the time the booth person gets relieved anywhere between 1:00 and 3:00--

Nemeth
Q. --Uh-huh--

Icamen
A. --But it all depends because the 9000 floor is so--it's busy and so many different times things happen, disturbances here, disturbances there--

Nemeth
Q. --Uh-huh--

Icamen
A. --Lines come up late, and there's disturbances on the floors, we're not able to deliver the new fish lines on time, so it varies, that's why whatever, between 1:00 and 3:00 it's usually a good variable (inaudible) breaks.

Nemeth
Q. --Uh-huh. Alright, based on what you know now, who responded from 9000 took off the names? You can use the in-service there to help you.

Icamen
A. I don't remember that day.

Nemeth
Q. Alright, but I said what you know, based on what you know now.

Icamen
A. Based on what I know now, I don't remember the people involved going to the incident. I mean, I can look at these names, but in the back of my mind, I do know who is being questioned, but to recollect that day and what happened, and who went, I don't

remember. I do remember that I was there, and I do remember that I stayed in the booth, but I don't remember exactly who went.

Nemeth
Q. Uh-huh. Well, looking at this in-service here. Hernandez, you were relieving him, you know that, right?

Icamen
A. I don't know if I relieved him. He wasn't in the booth at the moment, but I remember that everyone, I was, we were all, I don't even remember how many deputies were in the booth, but obviously I was standing in there, the deputies who went, left the booth and I was, I, I said, "Oh, I guess I have to stick there because Hernandez was gone." I don't remember if Hernandez was on a break, Hernandez stepped over to get something in the chow hall, I don't remember. I do remember that I'm the one that stayed in the booth, though.

Nemeth
Q. Alright. Well, if the booth's not your assignment, is it normal that the person assigned to the booth would run out and leave somebody else to stay behind?

Icamen
A. No, it's not. I'm not sure if Hernandez was on a break or actually responded to a, a disturbance, I don't remember. I do remember that I was the one in the booth who stayed because everyone else responded to that disturbance.

Nemeth
Q. Okay, but did you understand the question? Is it normal, let's say you, Hernandez, Broad, and Barrett, and Kammer, and Romero were all in the booth on 9000, and a 415 call goes out, is it normally the first guys who hit the door, get to go and the last man standing there has to go in the booth?

Icamen
A. Normally, the control book, the control person will stay at control. Control is always--

Nemeth
Q. --That's your assignment, right--

Icamen
A. --To be manned--

Nemeth
Q. --Right.

Icamen
A. Like I said though, there's times where they do, if, if a couple guys are off the floor on their break or they're escorting lines, and they need more bodies, the movement control guy will take over the control spot, and let the control person respond, or vice versa.

Nemeth
Q. Uh-huh. Well movement control was Barrett, correct?

Icamen
A. --Sometimes--

Nemeth
Q. --Was Barrett, correct?

Icamen
A. Yeah. Movement control at times, movement control will also respond if he's just standing and he's right by that door and Hernandez doesn't (inaudible) on the control booth. I mean, I've seen it done. It all depends, you know, it's not--

Nemeth
Q. --Alright--

Icamen
A. --There's no set law, it's like, whoever responds.

Nemeth
Q. Gotcha. How many people were in the booth before the call went out?

Icamen
A. I don't remember.

Nemeth
Q. More than two?

Icamen
A. My guess, my guess was, my guess there had to be three or four, but that's my guess. I don't remember, though.

Nemeth
Q. Plus yourself?

Icamen
A. I, I don't remember.

Nemeth
Q. Well it has--

Icamen
A. --There had to be more than, there had, I, I know it wasn't just me, there was more than two, but I don't remember the exact. I don't remember if there was three, four or five, because I know it wasn't just me and somebody, but I do remember that I was, I really remember bodies running.

Nemeth
Q. Okay. Alright, and you remember that you relieved, let me ask you this. Did you relieve Hernandez prior to this yell going out?

Icamen
A. I don't remember if I relieved him, or if he was on break and we all happened to be standing in the booth, because we're in and out of the booth often. I'm, as a movement guy, I'm checking, I'm checking with movement control if he has any lines.

Nemeth
Q. Uh-huh.

Icamen
A. We move, who knows how many, we're in the booth, in and out about 20 times.

Nemeth
Q. Uh-huh.

Icamen
A. So, if we're right, if I go in there and say, "Hey, do you have a line for me?"

Nemeth
Q. Uh-huh.

Icamen
A. I'm in there.

Nemeth
Q. How about Dvorak?

Icamen
A. Prowl, I don't remember. I don't remember him being there. I mean, this is I worked so many days on nine, I was there. I've been there for, I've been there almost 4 years on that floor.

Nemeth
Q. Uh-huh. Well, this is the day that an incident occurred --

Icamen
A. -- I understand that --

Nemeth
Q. -- which resulted in four deputies [redacted] That doesn't happen every day, does it?

Icamen
A. No, it doesn't.

Nemeth
Q. In fact, that's probably not happened in the entire time you've been here, except for this time. Have -- is that true?

Icamen
A. As far as being [redacted] --

Nemeth
Q. -- Four deputies being [redacted] behind one incident.

Icamen
A. I don't remember it ever happening.

Nemeth

Q. Okay. So that -- in other words this is the only time this has ever happened in your memory. Right?

Icamen

A. Yes.

Nemeth

Q. Pretty significant event, then. Isn't it?

Icamen

A. It is pretty significant event.

Nemeth

Q. Alright. So, what I'm asking you is, do you remember Dvorak being in 9000 control?

Icamen

A. No, I don't. I don't remember. I don't remember anyone. I don't remember who I worked with that day. I remember thinking about it, you know, when -- when a week later or something when people were -- were talking about people being under investigation. I remember thinking about it. Well, I remember, "I was in the booth." I don't even remember who responded on our floor because it was -- it didn't even -- wasn't even a question at that time of our guys being there. So it never-, me thinking of who was there from our floor never occurred. I mean, it didn't stick in my mind. All I -- all that sticked in my mind was what happened on that floor and who supposedly was [redacted]. So, thinking about who -- who responded from our floor was never in my mind. That's why it doesn't stick in my mind. I remember that I was in the booth, though.

Nemeth

Q. Okay. How about Carlo? He's a dorm person, never mind. How about -- how about, what is this, Goltz?

Icamen

A. Goltz?

Nemeth

Q. Yeah.

Icamen

A. He's (inaudible). Goltz, he's not even -- he wasn't even my regular partner. So, I can't -- I -- You know -- I don't even remember working with Goltz. 'Cuz -- my regular the partners were -- I mean, I can remember working with Sander and I don't even remember working with Corrella, either. So, it doesn't -- nothing jogs my memory --

Nemeth

Q. -- Uh-huh. --

Icamen

A. This is not my mor -- normal partner. I know he's been on the floor a long time --

Nemeth

Q. -- Uh-huh. --

Icamen

A. -- But he was never my normal partner.

Nemeth

Q. Okay. And you don't remember what time of -- of the evening this happened, right, is that what you're saying? I mean, even if you say --

Icamen

A. -- I don't -- I don't remem -- I don't -- I don't remember being at the beginning of the evening. So, I'm only guessing it's sometime in the middle --

Nemeth

Q. -- In the middle --

Icamen

A. -- Yeah.

Nemeth

Q. And what's your estimation from the time the deputies left, some deputies left at least two left, is that correct? We've come to that determination, right, 'cuz you said there was three people in the booth including yourself, at least.

Icamen
A. No. No. I -- I -- at least three people. I don't remember -- me -- me and someone --

Nemeth
Q. -- Right --

Icamen
A. -- I mean me and some people.

Nemeth
Q. Right. So, what -- what you said a few minutes ago is you -- you believe it was at least yourself and two others and maybe more. Is that correct?

Icamen
A. That's correct.

Nemeth
Q. Okay. All deputies, right?

Icamen
A. All deputies. Well, maybe the -- the CA, also.

Nemeth
Q. What's a CA?

Icamen
A. Custody assistant. She stays in the booth at all times.

Nemeth
Q. Okay.

Icamen
A. She never leaves the booth --

Nemeth
Q. -- She never responds to dep--

Icamen
A. -- Never. --

Nemeth
Q. -- to disturbances, right?

Icamen
A. Never. Never. No. Unless she's on break -- I don't know if she was on break at the time, to tell you the truth. I don't remember her being in the booth.

Nemeth
Q. Okay. So you just remember yourself being in the booth alone after everybody left, correct?

Icamen
A. That's correct.

Nemeth
Q. To respond. And when I say everybody left, we've determined that everybody's at least two other deputy sheriffs --

Icamen
A. -- assigned to 9000 that night.

Nemeth
Q. Correct. Maybe more, correct?

Icamen
A. Maybe more. (inaudible) booth.

Nemeth
Q. Okay. That left?

Icamen
A. That left.

Nemeth
Q. 'Cuz you were all by yourself, right?

Icamen
A. Right. I believe it was more than one -- it wasn't just me and someone -- I just remembered a group. It could've been two or three maybe four. I don't -- I don't recall.

Nemeth
Q. Okay. Alright. But you were left in the booth, the 9000 control booth alone?

Icamen
A. Right.

Nemeth
Q. Okay. And when they left and when they came back, how much time elapsed between those two events?

Icamen
A. I don't remember. I don't -- I don't remember them being down there a long time -- significant time. When I say significant I don't remember them being there more than half an hour, 45 minutes. From what I remember, I think they just came right back up, from what I remember.

Nemeth
Q. Okay. And -- and what's -- what's the time frame estimate for coming right back up?

Icamen
A. Now I hate -- I mean, I'm totally guessing. 5, 10 minutes.

Nemeth
Q. About 5 or 10 minutes. Pretty quickly.

Icamen
A. It was quick.

Nemeth
Q. Pretty quick. Okay. And when they came back up, did everybody who left come back up or did somebody or somebodies not come back up?

Icamen
A. I don't remember.

Nemeth
Q. When people returned, did they return in a group or did they return one at a time or two at a time or?

Icamen

A. I don't remember that either.

Nemeth

Q. Okay. So, what you're remembering then when you say 5 or 10 minutes and they returned, that's the first persons or person to return, returned in that period of time?

Icamen

A. Yeah. See, I don't remember if -- if people came back in a group or one at a time came up. You know, sometimes when there's, especially when there's deputy-involved incidents, you know, some people like to -- to stick around or watch or help out with anything. I don't remember if anyone stuck around to help out with any paperwork --

Nemeth

Q. -- Uh-huh. --

Icamen

A. -- that needed to be done.

Nemeth

Q. Do you remember when Hernandez returned to -- to resume his assignment as the 9000 control officer?

Icamen

A. No, I don't even remember him working.

Nemeth

Q. Until you saw his name on the in-service?

Icamen

A. No. I mean, that could've been anyone working 9000 -- I don't remember -- I don't remember me being the only one in the booth and not being able to respond. I mean, as far as -- as far as Hernandez is concerned -- I mean, I remember that incident that I was in the booth. I don't remember relieving Hernandez. I don't remember relieving anyone, but I do remember just being the only one there when everyone responded. I don't remember who worked and why Hernandez was out of the booth or anything. I don't remember if there was another deputy working. I remember that I was there and everyone went so I had to stay. That's what I

remember. Now I see -- I work with these guys every single day. I -- I just didn't --I remember that incident being, me being there and some guys responded.

Nemeth

Q. Alright. Let me ask you this. Is it based on what you're saying then, if I understand you correctly, what you're saying that it's possible that Hernandez was in the booth with you and the other individuals that were there, deputies, and when this call went out they all left and you were the last one left in the control booth. Is that correct?

Icamen

A. That could be it. That could be -- that could be a possibility. I don't remember if he was on a break. I remember that I just stayed in the booth.

Nemeth

Q. Okay.

Icamen

A. Hernandez could've gone. He could've just been standing by the door. He could've been on his break and he was walking back all of a sudden he heard something and everyone else ran and I said, "Oh, Okay."

Nemeth

Q. Uh-huh.

Icamen

A. I'm sitting there.

Nemeth

Q. Well, as you said before you -- you know, you had -- you heard about who's involved and obviously there was a lot of talk around the jail especially after the people were [redacted] and -- and I'm sure recently too, in depth investigation and interviews have recommenced in this incident --

Icamen

A. -- Uh-huh.

Nemeth
Q. Hernandez' name come up in any of those things?

Icamen
A. Not Hernandez' name.

Nemeth
Q. Okay, what names have come up in those conversations?

Icamen
A. As far as -- on our floor?

Nemeth
Q. Yes.

Icamen
A. There's Romero, Broad and Barrett. Those supposedly the three. I don't remember.

Nemeth
Q. Nobody else?

Icamen
A. And Kammer.

Nemeth
Q. Nobody else besides those?

Icamen
A. Those are the ones -- the ones I -- I know of.

Nemeth
Q. Okay.

Icamen
A. No one else that I know of.

Nemeth
Q. Alright. How about from anywhere else? Any other assignment in the jail? What names have come up?

Icamen
A. As far as being involved?

Nemeth
Q. Uh-huh.

Icamen
A. [redacted] [redacted] And Kluth. And I'm not sure if there is another one involved.

Nemeth
Q. That's it. Nothing else.

Icamen
A. That's all -- I mean, I have to get names. Oh, yeah, those are the three that come to my mind right now.

Nemeth
Q. Uh-huh. Uh-huh. But no other names aside those, that you've heard?

Icamen
A. I may have but you have to read my memory, but those are the three that come up on my mind right now.

Nemeth
Q. I mean, we obviously know who the [redacted] are and that's -- you just named three of them. So, I mean, besides the four people who --

Icamen
A. -- I forgot there was one more -- I forgot his name, though.

Nemeth
Q. Was he [redacted] the person you're thinking of?

Icamen
A. Yes.

Nemeth
Q. Yeah, okay, we know who that is. Anybody else besides those?

Icamen
A. No, not that I know of.

Nemeth
Q. Okay. And so did you at any time during your shift that night go to Module 4400 --

Icamen
A. -- No. --

Nemeth
Q. -- to look in or check up on what's happening?

Icamen
A. Uh-uh. I mind my own business.

Nemeth
Q. Just say no because you say, "Uh-uh." or "Uh-uh." When they go to transcribe this tape "Uh-uh" sounds like "Uh-huh."

Icamen
A. No.

Nemeth
Q. Okay. So, you were never in Module 4400 on October 27, 1994. Correct?

Icamen
A. No, I wasn't.

Nemeth
Q. Okay. Sergeant Gjendem.

Gjendem
Q. Yeah. A couple questions. So, you're inside the booth and you think there's two maybe three other people in the booth besides you --

Icamen
A. -- Uh-huh.

Gjendem
Q. Did deputies that were in the booth that left to go downstairs, how were they alerted to go down stairs? Did you get a phone call?

Icamen
A. No. From what -- from what I remember -- I remember hearing something. I remember hearing yelling -- a disturbance, that kind of thing. -- I heard -- I heard someone yelling. That part. You can hear it anytime you hear anyone yelling you can hear it from up on the floor especially if it's occurring on 5000 or 4000 hallway. It's -- it's very audible through the booth. And I don't know if the -- the door was cracked or not but we remember hearing it. See, I -- I don't -- you know, it's like -- it's like, "Was that something?" And people -- people responded. That's what I remember.

Gjendem
Q. So, was it somebody yelling or was it a radio or was it a PA system?

Icamen
A. I don't -- I don't -- I remember thinking about this and I remember that we responded to a yell not a radio.

Gjendem
Q. Remember what the words were?

Icamen
A. No. I remember it was -- I just remember yelling. That's all I remember. I don't -- I don't remember words -- from the yell --, just, just that it was yelling.

Gjendem
Q. Well, did you initially know it was a deputy involved in a fight?

Icamen
A. No.

Gjendem
Q. You didn't know that?

Icamen
A. Uh-uh.

Gjendem
Q. It just could have been an inmate down the hall --

Icamen
A. -- Right, but -- but when you heard yelling you automatically assume that it could be a deputy involved so you respond. If I hear an inmate yelling, I'm assuming they're either in a fight with someone else or they're in a fight with a deputy. So, you respond one in the same. 'Cause you can't see it.

Gjendem
Q. Were you sitting in the control booth chair, there?

Icamen
A. I don't remember sit -- I don't recall I was sitting or standing there. I don't really remember.

Gjendem
Q. Remember who was standing right outside the control booth, in front of the control booth by the window?

Icamen
A. No, I don't.

Gjendem
Q. You don't remember which deputy was standing there, if any?

Icamen
A. No, I don't. My guess is that I used to like work, I worked the control booth -- about -- about a year. So, my guess -- if --I know if -- if I didn't respond I probably was working the control booth or sitting there if I didn't respond to it, 'cause I know I wasn't assigned there. So, my guess is I always sat there and helped Barrett out because that's what I did half the time anyway. I used to help him out and -- when the other guy was on a break, 'cause the job was so busy. It was -- it was pretty common that I would give -- give the control booth guy a break if Barrett was too busy. So, I'd sit there. That's what I'm guessing, that I was sitting there at the time and I popped the door because you have the person, person at the control, the control booth has access to the door being so --. So, if I'm pushing the door and everyone's going I -- I could only think that I was probably just sitting there. That's my -- I don't really remember if I was sitting or standing there but that -- that's what I'm thinking. I'm just using my own reduction.

Nemeth
Q. When you say pushing the door you mean pushing the button that electronically releases the door?

Icamen
A. -- Yeah. -- There's a button right there.

Gjendem
Q. Uh-huh. You're not exactly sure what you heard exactly?

Icamen
A. No. I remember just yelling.

Gjendem
Q. Do you have a deputy field notebook?

Icamen
A. Yes, but I didn't want --. It's in my bag but I didn't -- I didn't -- I didn't log the incident.

Gjendem
Q. You didn't log the incident. Are you sure of that?

Icamen
A. I'm positive.

Gjendem
Q. Why are you positive of that?

Icamen
A. Because I normally log things that I'm involved with or observed. You know, I cover myself. Every time I'm either a witness to force whether it's the Extraction Team or force that I get involved with myself, I log it. That's how I was trained.

Nemeth
Q. That's a good idea.

Gjendem
A. Uh-huh. Okay, there was a CA on the floor that night --

Icamen
A. -- That's correct.

Gjendem
Q. Is that correct?

Icamen
A. Uh-huh.

Gjendem
Q. You said that CA -- you said that you were the -- remember being the only deputy in the booth after everybody left.

Icamen
A. That's correct.

Gjendem
Q. Was this person still in the booth with you?

Icamen
A. I don't remember. She takes breaks, also, and she goes down to the locker room or get something to eat. But, yes, I don't remember her being in the booth. My --. See, my guess is, also, that if she was in the booth I would've responded, also.

Gjendem
Q. Uh-huh.

Icamen
A. So my guess is that she wasn't in the booth at the time because I would have gone also. You know that's my guess. Unless there was some reason that she couldn't go -- she couldn't watch the control booth. There's times where she's able to watch the control booth and a 415 disturbance on the floor or any 415 and she'll man the booth. So, if I chose to stay there, my guess is, she was out of the booth. That's my guess. Or maybe -- I don't know. Maybe she was sick or -- I don't remember.

Gjendem
Q. Uh-huh. You don't remember the order the deputies came back in that left the booth, though?

Icamen
A. No, I don't. I don't remember. I don't -- I still don't remember if they came back in a group or they came back one at a time. I don't remember.

Gjendem
Q. The deputies that came back, did they have any blood on them?

Icamen
A. Not that I remember. I would've remembered that.

Gjendem
Q. Remember anybody going to the bathroom and cleaning themselves up?

Icamen
A. No, I don't.

Gjendem
Q. I don't have anything.

Nemeth
Q. Last question is, do you remember Deputy Broad washing his hands after the incident?

Icamen
A. No, I don't.

Nemeth
Q. Do you remember Deputy Broad injuring his finger with a minor cut earlier that evening?

Icamen
A. No. No, I don't. He would've mentioned it to me. I don't remember.

Nemeth
Q. He would've mentioned it to you, you said?

Icamen
A. Well, I think if he -- if he hurt himself I would've -- I think he would've mentioned it to me.

Nemeth
Q. Even if it's a minor thing?

Icamen
A. Maybe -- not if it's a minor one. But if he was hurt significantly he'd -- I think he'd mention it. He'd say, "Oh, I hurt myself." (inaudible). Deputies talking if they hurt themselves. They would -- they would tell each other.

Nemeth
Q. Do you think he'd tell you if he re-injured that -- that front cut, even if it was a minor cut as a result of having responded to this incident?

Icamen
A. Probably not. Not if it's just a minor cut. He'd probably keep it to himself.

Nemeth
Q. Did you notice any cuts on his finger that night or any bandages or anything?

Icamen
A. I don't remember anyone being injured or anything. Slightly.

Nemeth
Q. Or re-injured as a result of that response?

Icamen
A. Or re-injured.

Nemeth
Q. Okay. What have you heard since the incident took place and prior to any interviews that occurred down here?

Icamen
A. All I know is the -- the --

Gjendem
Q. I want you to tell me -- I want you to tell which each person has told you.

Icamen
A. Okay, as far as --

Gjendem
Q. No, Barrett sat right behind you, correct?

Icamen
A. Right.

Gjendem
Q. What did he tell you was his involvement?

Icamen
A. I don't -- I don't remember any of the deputies claiming to them being involved with the incident on 4000 when they came back up. I -- I don't remember --

Gjendem
Q. And which deputies are those?

Icamen
A. Well, --

Gjendem
Q. Well, you seem to be having a little better memory right now.

Icamen
A. No. I don't remember anyone coming back up and tell me they were actually involved with any sort of -- of -- how do you say- force or anything that had to do with the thing on 4000. I do -- I do remember them coming back up. But I don't remember anyone -- anyone telling me that they were involved.

Nemeth
Q. Okay. --

Icamen
A. -- involved with anything that happened.

Nemeth
Q. Alright. That wasn't the question, though.

Icamen
A. Okay. I'm sorry.

Nemeth
Q. What he asked you was what did they say about what happened on 4000? Tell me what Barrett said, for example, what -- what happened?

Icamen
A. I don't -- I don't remember. I don't remember them -- I do remember that -- that Kluth was involved wrestling around with the guy. I don't remember anyone saying what they were involved with or what happened downstairs.

Gjendem
Q. Well, Barrett worked 9000, correct?

Icamen
A. That's correct. He's the movement control deputy.

Gjendem
Q. Uh-huh. And Broad worked 9000, too, correct?

Icamen
A. That's correct.

Gjendem
Q. And Romero worked 9000.

Icamen
A. That's correct.

Gjendem
Q. And so did Kammer.

Icamen
A. That's correct.

Gjendem
Q. And you worked 9000?

Icamen
A. Yes.

(End of side A of Tape)

Nemeth
Continuing with Deputy Icamen's interview.

Gjendem
Q. Since this incident happened back on October 27, 1994, you've worked with these four deputies. Is that correct?

Icamen
A. That's correct.

Gjendem
Q. And you worked closely with these four deputies. Is that correct?

Icamen
A. That's correct.

Gjendem
Q. What conversations have you had with Deputies Romero, Broad, Barrett and Kammer, in that order, about what happened that night since October 27th until today?

Icamen
A. I don't remember any discussions that I had with them.

Gjendem
Q. Let's start with Romero first, okay?

Icamen
A. Okay.

Gjendem
Q. What has Romero told you his involvement was in this?

Icamen
A. Okay, as far as the involvement they are not saying --

Gjendem
Q. -- Not they, I'm talking about Romero.

Icamen
A. Okay. Okay. But I can tell you right now each of them has not said a word to me regarding what's happening and that's only because of the orders given by you -- I -- not to say a word to anybody and I do not -- I don't question anybody. I don't say what happened. I just mind my own business.

Gjendem
Q. Alright.

Nemeth
Q. Hold on a second Greg. Let me ask you a question. Nobody interviewed Romero, Barrett, Broad, or Kammer until December, alright.

Icamen
A. Right.

Nemeth
Q. This incident happened in October.

Icamen
A. Uh-huh.

Nemeth
Q. These deputies were [redacted] four or five days after that.

Icamen
A. Right.

Nemeth
Q. Okay. So, you're gonna tell me, as you sit here today, that four deputies are [redacted] it's the most significant event in the history of your time at the jail --

Icamen
A. -- Uh-huh. --

Nemeth
Q. And you're not gonna ask the individuals who responded what happened down there? Is that what -- I mean, I'm just trying --

Icamen
A. -- Okay, I understand what you're saying. I may have, but I don't remember what they said happened. I remember -- I remember the -- us responding. I remember being in the booth. I may have asked them what happened. I mean, that's common. But I don't remember what -- what exactly happened. I don't remember anyone saying what they did or what happened. I just don't remember.

Nemeth
Q. Alright. When you say, "Us responding", what does that mean?

Icamen
A. Meaning 9000. Meaning when we heard something, we responded. Because on new side everyone -- it's -- if -- if something happens -- something relatively close to our floor, we respond.

Nemeth
Q. Okay. So, when you're saying "we" and "us" you're not including yourself?

Icamen
A. I'm not including myself.

Nemeth
Q. You didn't respond, correct?

Icamen
A. I did not respond.

Nemeth
Q. You never entered that module that night at all?

Icamen
A. Never. Never left the floor.

Nemeth
Q. Well, I'm sure you had to leave the floor to go back home or something, right?

Icamen
A. Right. But during the incident --

Nemeth
Q. -- Okay. --

Icamen
A. I never left the floor.

Nemeth
Q. Alright, so you never went there to Module 4400 at all that night?

Icamen
A. No, I didn't.

Nemeth
Q. Okay. Now, getting back to the question Sergeant Gjendem asked you. This is a big event. This is a big thing happening especially when, number 1) it's a big thing that an inmate attacks a deputy and a deputy gets in a deputy pretty drawn-out fight with a guy --

Icamen
A. -- Uh-huh. --

Nemeth
Q. Do you consider that to be serious?

Icamen
A. Uh-huh. Yes.

Nemeth
Q. Alright. Then, when you combine that seriousness of that event with the fact that the -- the involved deputies, including the one who was attacked, are [redacted]

Icamen
A. Right.

Nemeth

Q. We've already discussed how that's the, the only time in your assignment to Central Jail that four deputies have been [redacted] like that behind one incident, correct?

Icamen

A. That's correct.

Nemeth

Q. So, when that occurs, you know and you work closely with several deputies who responded.

Icamen

A. That's correct.

Nemeth

Q. Okay. And you're gonna tell me that you didn't talk to them about what happened and now you just don't remember what they said? Remember you're under obligation to give us full, complete and truthful statements.

Icamen

A. Yes. It's truth -- that I am giving you truthful statements, sir. I am giving -- the only thing and I don't remember where I've heard this is I remember the -- that Kluth was being, actually the inmate had Kluth in a head lock. Now, I hear out -- I hear outside things that I don't remember the guys actually talking to me but what I hear from not our guys but other guys that by the time our guys came down, it was already -- the incident was already over as far as the inmate was already cuffed.

Nemeth

Q. Uh-huh.

Icamen

A. So, that's what I hear that our guys were not involved and I don't remember if I heard that from the guys I work with or if I heard that from another deputy who worked that floor or just rumor. I -- I don't remember. I do remember though that what I remember or recollect from hearing from someone by the time 9000 came down it was already over and the guy was already cuffed.

Nemeth
Q. Well, what do you hear is the reason that these four deputies got [redacted]

Icamen
A. I heard that the -- the inmate sustained an injury to his scrotum or his or where he had a testicle removed.

Nemeth
Q. Okay.

Icamen
A. And because of the paperwork, inmate injury did not reflect any strikes or blows to that area that it's in question, that the deputies aren't telling the whole truth regarding force.

Nemeth
Q. Okay. Now did you read any of the paperwork that went through?

Icamen
A. No. No, I didn't.

Nemeth
Q. You didn't read any of the --

Icamen
A. You just -- you just hear things in the jail.

Nemeth
Q. Okay. Let me ask the questions, okay? You didn't read any of the supplemental reports or the original report, the inmate injury report, the force reports, nothing in this case? Is that correct?

Icamen
A. Nothing in this case.

Nemeth
Q. Okay, now when you hear about this testicle being removed and -- and deputies not telling the whole truth and that explains why these deputies are [redacted] or at least that's the -- the assumption, correct?

Icamen
A. Uh-huh. That's the assumption.

Nemeth
Q. Okay. And you have these four deputies, at least four, from your floor that responded and you work closely with them, did you ask them, "What's up with this part of it? What's going on with this testicle thing?" What, you know, what did they say about that?

Icamen
A. I -- I don't remember actually getting into a discussion with any of the guys on the floor other than them saying, "We weren't involved." I mean, "I don't want to talk about it, but we weren't involved."

Nemeth
Q. They said they don't want to talk about it?

Icamen
A. No, when they're -- when -- when -- see, I don't remember if it was someone asking them, "What did they say, what'd they say," I -- I don't' remember. I remember someone, I don't remember who, but they said, "No one wants to talk to talk about it because that is an order not to talk about it."

Nemeth
Q. Okay, Greg, we're talking about a time before anybody ordered anybody to talk about anything. This is way before anybody was interviewed in terms of these individuals that worked 9000. In fact, nobody knew they were there at this point in time of the investigation, okay?

Icamen
A. Okay.

Nemeth
Q. So, forget that stuff about they ordered them not to talk. Okay? Why -- what were these individuals telling you about, "They don't want to talk about the incident?"

Icamen
A. Okay. That, like I said, when they came back to the floor, I don't remember them discussing what happened. I remember -- I would've asked that question, but first thing --

Nemeth
Q. -- Sure, you would have.

Icamen
A. -- But, see, like I said, it didn't -- I don't remember them or me discussing what happened on the floor.

Nemeth
Q. Alright. Let's go back to the question I asked you before. Alright. We're talking about now when these -- the four principal deputies involved are [redacted] okay? You're working on the floor and you're close friends and you work closely with some of the individuals, deputies, who responded that nobody knew about at that time.

Icamen
A. Uh-huh.

Nemeth
Q. And you're gonna tell me that you asked them about, "What's this with the testicle thing? What's happening? Four guys are [redacted]

Icamen
A. No.

Nemeth
Q. You never asked them that question?

Icamen
A. No, I didn't.

Nemeth
Q. You didn't?

Icamen
A. No, because I heard that from someone else.

Nemeth

Q. Uh-huh. So, you wouldn't ask the people who were there to, best in a position to say, "What's going on?" You didn't ask that?

Icamen

A. I -- No, because I remember in the back of my mind, at that time, that the guys from our floor weren't involved. So, I never even bothered asking --

Nemeth

Q. -- Stop. If I were to go back right now and play this tape back and count how many times you said, "I don't remember. I don't remember." I bet you'd be about 100 right now.

Icamen

A. Okay.

Nemeth

Q. Okay.

Icamen

A. That's true.

Nemeth

Q. And as I told you -- that's true, right? You're saying you don't remember a lot, right?

Icamen

A. I don't remember a lot --

Nemeth

Q. Okay, stop. Stop. Let me finish. Okay? What I'm -- what I'm suggesting to you is this, right now you're just a witness, as I told you all along, okay. Your, the Division Chief in this case, his concern is that people are not remembering things because they don't want to involve friends or, you know, potentially say something that gets somebody in trouble. I'm here to tell you that that should not be one of your concerns. You're concern at this point should be to comply with the orders you've been given to give full, complete and truthful statements because what may happen is, and I'm telling you this in the best advice I could give you, Greg, is to tell 100% of the truth, 'cause it's gonna come out --

Icamen
A. -- Okay. --

Nemeth
Q. -- and if it comes out at some point that you were told things and that you didn't remember now, okay. All that needs to be proved in this case, this isn't the OJ Trial, okay, all that needs to be proved here is preponderance of the evidence. So if your Division Chief believes that you were told and that you did not tell us and you just said, "I don't remember." You may still be named as a subject in this case and -- and be culpable for discipline. Okay?

Icamen
A. Okay.

Nemeth
Q. Be subject to discipline in this case. And when you hear terminology like the Code of Silence and things like that, okay, that's -- that's what we're talking about here. Okay, and that's a pretty serious type of event. Right now, okay, based on your own statements and what I -- I have discovered in the investigation so far you're only a witness. You were not there. Is that correct?

Icamen
A. That's correct.

Nemeth
Q. Okay. We're just asking you some things about what conversations you had with the other guys that were there, okay? And you're not gonna get anybody in trouble when you tell the truth.

Icamen
A. Right.

Nemeth
Q. Okay.

Icamen
A. I have no reason to lie. I -- I've always been someone who always told the truth. I believe in telling the truth. I believe -- I don't believe in lying.

Nemeth
Q. Alright. Let's go back to the question --

Icamen
A. I'm a strong Christian man who believes in telling the truth. And I always told the truth. So, when I'm sitting here and telling you, "I don't remember," that is the truth and I hear -- I always -- you know, I remember asking people, people talking about it 'cause it was a word of mouth thing that everyone and everyone talked about it for, for a week, for two weeks, for three weeks because these are the guys you work with. So, you know, you did hear about what happened. I don't remember who's telling me what happened or I mean, you just hear what happened in the module and how -- how these guys were put on discipline--

Nemeth
Q. Alright. Tell us about what happened in module that you heard.

Icamen
A. I heard that -- that for some reason Kluth had to talk to this guy, I don't remember what, but he -- he ended up getting in a scuffle with him where the -- the deputies had responded. They saw Kluth in a head lock. No one talked about what happened. It seems like everyone seems to be closed-lipped on what actually happened as far as force or punches or whatever happened. I mean, I don't know. I do remember -- I heard that there was one guy in the shower who is a witness and -- another inmate who was -- was in the shower -- who was a witness to everything -- when those guys went down -- was put under investigation, I do remember our guys, now I can specific -- I can't say specifically 'cause, you know, I just remember our guys at the time during discussion say they were -- they weren't involved. Now, of course, I don't remember their names. I just remember our guys weren't involved. I -- I can only -- of course I know the names now, but I remember in discussion at that time that our guys said by the time they got down there everything was over. That is what I remember, sir and that is the truth.

Nemeth
Q. Okay.

Gjendem
Q. They told you the -- when they got down to 4000, the incident was over when they came back up. Is that correct?

Icamen
A. I do remember that being a discussion when -- look, I don't remember at that time, when they came back up I do remember that when the other four deputies were put under investigation the question seemed to come up, "Well, what happened?" "Well, we don't know." I mean, even among deputies because by the time we got there the guy was already handcuffed.

Gjendem
Q. Uh-huh.

Icamen
A. I don't remember if Deputy Broad actually told me this or I heard it that he restrained his legs. So, when they -- when they --- I don't know if they put the rope-a-dope but he helped restrain the legs while the guy was handcuffed. That's -- I don't remember if he told me that during the time or that's what I heard.

Gjendem
Q. What did you refer to as a rope-a-dope?

Icamen
A. I'm sorry, the hobble. I'm sorry.

Gjendem
Q. The hobble restraint. Okay. And you say Deputy Broad told you that?

Icamen
A. No. I don't remember if Broad told me that if that's -- that's my recollection of hearing the rumor.

Gjendem
Q. Okay. And that was that same day or the next day? Same day?

Icamen
A. I don't remember.

Gjendem
Q. Well, could it have been two days?

Icamen
A. I -- I don't remember if he told me or -- 'cause see I'm getting mixed up on when I heard this. If maybe when every, those guys were under investigation, I heard who was in -- you know -- when our guys were being questioned. See, I don't remember if it was just people talking -- I just remember that that was his involvement. I'm trying to remember everything. But people are not talking.

Gjendem
Q. Well, let -- let me say this. That night of October 27, 1994. There was pretty significant use of force down there in Module 4400.

Icamen
A. Okay.

Gjendem
Q. And you being a -- you being in the 9000 booth and several of your deputies went down there and they came back to your booth. Correct? When they came back in, you're gonna sit here and tell me you never asked them, "Hey what happened down there?" That sounds unreasonable.

Icamen
A. Okay.

Gjendem
Q. Did you ask them, "What happened?"

Icamen
A. I probably --

Gjendem
Q. -- "What's going on down there, guys?"

Icamen
A. I probably did and I -- and I probably got the answer that this ding went off on Kluth, um, um, but I don't remember them discussing it with me. I don't remember the day. Because, like

I said, sir, it is significant, but on 9000 floor we get involved with deputy-involved disturbances almost every day. So, for this to be, you know, it was just another day in my mind. It was just another day. We -- we get over a 1000 inmates running through that floor even on our shift we'll get 600 - 700 dol -- 700 new inmates coming up and we get involved with force almost every day. So, to day that it is significant when a deputy does get involved, but it was something that happened quite often on our floor, at least on our floor, you know, maybe not much on 4000 floor but it was something that we were used to seeing, used to getting involved with. So, that's why I remember that's not really, really significant 'cause we're something -- we're -- we're doing everyday.

Gjendem
Q. So, Broad or somebody told you that he had to hold the leg down while he was down there --

Icamen
A. -- Yeah --

Gjendem
Q. -- on 4000 on this inmate that was going off.

Icamen
A. Right.

Gjendem
Q. As you call him a "[redacted]

Icamen
A. Uh-huh.

Gjendem
Q. Do you remember exactly when you heard that conversation? Or when you had that conversation with somebody?

Icamen
A. It wasn't -- No, it wasn't recent. It had to be a while ago. I'd say had to be over six months ago when I heard this. I don't know if I asked -- I don't know if I asked Broad myself, I'd have to remember. I do remember that.

Gjendem
Q. And what -- what did Broad tell you he did with this -- this leg --

Icamen
A. -- I'm sorry, I never asked -- I never asked John or I don't remember him talking to me. I just remember hearing that. I remember -- I remember -- I remember our guys not being involved with any force. That's what I remember hearing and -- I'm not really nosy after that. I don't ask questions and don't -- I kinda mind my own business. I've always minded my own business and I don't get involved. It seems like --

Gjendem
Q. -- Let me interrupt you here, okay. You said that you don't usually get involved with other people's business. Well, Broad or somebody has told you that he's been involved in this force issue by holding the guys leg down, right?

Icamen
A. No, I -- I didn't say that. I said I remember hearing discussion whether if our guys were involved or not. The only one who even had a hand on the inmate was -- was Broad who held his legs while there, I don't even know why but there -- he was just holding his legs down. I don't remember having -- that's why I remember hearing from someone talking about the incident and I don't think it was from Broad. I just remember hearing it in discussion.

Gjendem
Q. Do you remember where you were at when you heard that discussion? Were you in the control booth, were you on the floor?

Icamen
A. I don't remember. I don't, it wasn't that night, it was like when everyone starts talking about it, um and then it gets in the discussion. It was a long time ago, but I do remember someone mentioning it. "Well, How about what happened to the guys on 9000," while there, I remember someone saying, "That well they're not under questioning," because they were, they supposedly came down, and everything was over, and the only one who had any hands or, or anything on anyone was Broad who had helped hold the legs, that's, that's all I remember.

Gjendem
Q. Well, the deputies that went down that night, they came back and they told you that it was already over when they got down there, is that right?

Icamen
A. I don't remember that. I remember them, I, if it was, if they got involved, I think I would have remembered it, if they were involved with the um, the force, 'cause you know, some things stick in your mind, but I don't remember that being, sticking in my mind, and them being involved with anything.

Gjendem
Q. I think the--

Icamen
A. Because I would have--

Gjendem
Q. --you said that, he said that when they came back up, they told you to, when they got down there, it was already over with.

Icamen
A. No, I didn't say that, I said that, that's what I heard in, in talking, that, but then, then coming back up, and saying that they got involved, I, I don't remember. And, see, I don't remember in discussion, I don't know when this, or, or hearing people talking what had happened, but I do remember if they were involved with the whole thing, 'cause they came back kind of quick, I, you know, I don't remember them saying they got, they were involved with anything as far as the incident of force, or even witnessing it. I, I don't remember.

Gjendem
Q. You later learned through that hearing the discussion that Broad had been involved in it, is that correct?

Icamen
A. I'd heard that, that the only person who even saw anything, or if, I won't say saw anything, who even had anything to do with our floor was Broad, who just help hold the legs. But it was still, the guy was already handcuffed at that time, when he came down. I, I don't remember who, who told me that, or when this

discussion took place. I don't think it was Broad, because I think it was, was just something that everyone was talking about.

Gjendem

Q. And this was more than six months ago?

Icamen

A. At that, at least.

Gjendem

Q. And sometime after the incident, you said.

Icamen

A. Yes.

Gjendem

Q. Could it have been around the time when the deputies were [redacted]

Icamen

A. No. It wasn't right after the incident, because I remember this is, this is a discussion that was happening, I don't remember if it was, it was sometime after the incident, because every now and then everyone, all of a sudden, people would talk and say, "What's up with these guys," or, "did the D.A. pick up the case?" And then they would, people would talk about what happened, and, and that's what I remember that people would talk and say well, there's, I think when, maybe they first questioned our guys, people were, that is probably when, I don't even know when you first questioned our guys. I don't even know, I don't even know, but I do remember it was a while ago, and it was just people talking in the jail.

Gjendem

Q. Was it up on 9000 when you heard it?

Icamen

A. I don't remember that. Because -- I've heard rumors or people talking about that incident everywhere, 'cause you know, it's, it's (inaudible), it's just something that people talk about.

Gjendem

Q. What else have you heard?

Icamen
A. That's, that's all I remember as far as um, I know at this, I know that the D.A. didn't pick up the case according to somebody. So now, it's just Internal.

Gjendem
Q. What have you heard was Kammer's involvement?

Icamen
A. I didn't hear anything about Kammer's involvement, like I, I don't even remember Kammer being one of the guys going down. As far as rumor, I, all I know is Kammer was one of the guys that went down there, one of the guy, Romero and Broad. I do know that, and that's just through people talking, I do know that. I don't even go to those guys and ask them questions at this point, because I know they're not allowed to talk, so I don't even ask them. I don't ask them anything, I just -- kinda go to work, mind my own business. But as far as even people talking now, I don't, I don't hear anyone talking about what they did. I don't even hear any rumors about what they did. I mean I'm saying, I'm saying that recently within the last three, four months, no one talks about it. No one says anything.

Gjendem
Q. I'm just having a little bit of difficulty with you sitting there in that 9000 booth and all those deputies going downstairs and coming back up within, like you said, five to ten minutes, you came back up inside the booth, and you kind of being in control of the 9000 booth, and not asking those guys, "Hey, what happened?"

Icamen
A. You know, I'm not denying that I didn't ask them that. I don't remember getting a response, where I remember something like, "Oh, really," not that, that, but again, sir, we do have, we do have disturbances all the time, and if I'm not involved, I'll always ask questions, "Hey, what happened?" But, again, disturbances between us happen all the time. Disturbances that, that we get involved with always happens, and why always, we'll always ask, "Well, this guy went off, and we had to cuff him, we had to take him down, we had to spray him." I mean, that's something that you talk about, but I don't remember this incident, in particular, because it happened so long ago, and I think--

Gjendem
Q. And you weren't involved?

Icamen
A. And I wasn't involved.

Gjendem
Q. Did anybody talk about the amount of blood that was downstairs on the floor?

Icamen
A. I don't remember anyone talking about blood on the floor.

Gjendem
Q. Just a few days after this incident, you learned the, the inmate lost a testicle, correct?

Icamen
A. No. I learned that, I learned that, it had to be it had to have sometime after that, 'cause I don't remember, I don't remember talking about it after that, until someone mentioned it. I think it was actually a couple months when someone actually mentioned it. I mean, it had to be a significant time afterwards, 'cause I don't remember anyone talking about, "Oh, the guy lost a testicle," in that incident. I don't, I don't remember anyone talking about it that soon after the incident.

Gjendem
Q. Nothing else.

Nemeth
Q. Alright. Have you told us everything you know about this incident today, Greg?

Icamen
A. Yes, sir.

Nemeth
Q. Alright, and you've remembered everything, right?

Icamen
A. No, I well, everything I remember I've told you.

Nemeth
Q. That's a good way of putting it, everything you remember, you've told us?

Icamen
A. Yes, sir.

Nemeth
Q. Okay. I'm gonna call your attention to the provision you initialled on that form I showed you earlier on, where you are not to discuss this incident or our questioning of you, or what we talked about in this interview, or anything with anyone. If anyone asks you, including persons, supervisors, or persons of higher rank than yours, you're to tell them it's a confidential investigation, and you're under orders not to discuss with anyone. Do you understand that?

Icamen
A. Yes, sir.

Nemeth
Q. Okay, and if you fail to follow that instruction, that can result in you becoming a subject of another case, follow that?

Icamen
A. Yes, sir.

Nemeth
Q. Anything else?

Icamen
Q. No.

Nemeth
Q. Alright, anything you wanna add before we go off tape--

Icamen
A. No.

Nemeth
Q. --Deputy Icamen? Alright, conclude the interview, time is 1140 hours.

END OF INTERVIEW

ADMINISTRATIVE RIGHTS/SWORN WITNESSES

NOTE: This admonition is for Department personnel who are being interviewed in the capacity of SWORN WITNESSES.

I am **Sergeant John Nemeth** and this is **Sergeant Ernie Gjendem** of the Internal Affairs Bureau, which is commanded by Captain Norman L. Smith.

You are about to be questioned as part of an official Los Angeles County Sheriff's Department administrative investigation. You are here as a witness in a matter which concerns another employee. The complainant has not filed a complaint against you, and you are not under investigation as a subject in this matter.

Do you have a Policy and Ethics Chapter of the Manual of Policy and Procedures? Yes [✓] No [ ]
Are you familiar with its contents? Yes [✓] No [ ]

You are hereby advised that the provisions of the Government Code, generally referred to as the Peace Officers' Bill of Rights, do not apply in this instance. You are specifically reminded that Policy and Ethics Section 3-01/040.70 and 3-01/040.75 require that you make true, full and complete statements. Any refusal to do so may result in your discharge or other punitive action.

NOTE: Sworn personnel being interviewed as witnesses only and who are not under investigation or not personally charged with any violation do not have a right to have a representative present during the interview. If it is determined during the interview that the deputy is likely to be subject to discipline, the interview shall be stopped and the deputy shall be advised that his status has changed to that of a subject.

In the event the witness declines to answer questions on the grounds of self-incrimination, the witness/employee shall be readvised of his administrative rights as though he were a subject. **You are being ordered not to discuss the facts of this case or any of the issues discussed during your interview.**

Initials

The above admonition has been explained to me and I understand its contents.

DATE: **November 16, 1995** FILE NO. **IAB 008383**

Person Interviewed: (Signature) Gregory A. Icamen (Print) [redacted]

INVESTIGATOR: (Signature) JOHN A. NEMETH (Print)

SR. DEP. MICHAEL JACKSON
I.A.B. INTERVIEW 11-16-95

WITNESS INTERVIEW

CASE NUMBER IAB 008383

MICHAEL JACKSON

Nemeth

Q. Okay, today's date is Thursday, November 16, 1995. The time is 1245 hours. I'm Sergeant John Nemeth of Sheriff's Internal Affairs, accompanied by Sergeant Ernie Gjendem, also of Internal Affairs. We're present today at the Century Regional Detention Facility briefing room, interviewing Dep-, Senior Deputy Michael Jackson and Deputy Jackson, for the record, would you spell your last name and state your employee number?

Jackson

A. Jackson, J-A-C-K-S-O-N, it's [redacted].

Nemeth

Q. Okay, and we're interviewing you today regarding IAB case number 0083883, and prior to going on tape, I showed you a copy of your rights as a sworn witness in this case, which I see you initialed, signed, and answered the questions, yes. Do you understand your rights as a sworn subject in this case?

Jackson

A. Yes.

Nemeth

Q. Okay.

Gjendem

Q. Sworn witness.

Nemeth

Q. I mean a sworn witness in this case. You're not a subject, you're a witness, you're not suspected of violating any policy, and I explained that to you prior to going on tape, correct?

Jackson
A. Right.

Nemeth
Q. Okay, and prior to going on tape, I briefly told you that we were here to speak to you about an incident that happened back in October of 1994. Do you remember an incident that happened on October 27, '94, when you were assigned to Men's Central Jail?

Jackson
A. Yes.

Nemeth
Q. Okay. What, what was your assignment that night?

Jackson
A. I was assigned as, as senior, bonus one line deputy on 4[000] and 5000.

Nemeth
Q. Okay, and do you remember some event occurring that night that, that caused you to respond to module 4400?

Jackson
A. Yeah, mental observation inmate had an altercation with one or two deputies.

Nemeth
Q. Okay. Do you remember where you were when you were notified of this event?

Jackson
A. Yeah, I was just leaving the ODR.

Nemeth
Q. That's the officer's dining room?

Jackson
A. Yes.

Nemeth
Q. Okay, and how were you notified?

Jackson
A. I heard the call for back up, where a deputy involved in a 415 go-out, and went to the module.

Nemeth
Q. How did it, how did the call go out?

Jackson
A. It was real brief, it went out as a 415, deputy involved and then it went out like seconds later, code 4.

Nemeth
Q. Alright, when you heard this call, was it, was it being announced over a public address system, over a radio, or how?

Jackson
A. Being announced over the 480 radios.

Nemeth
Q. 480 radios. Did you have one of those radios?

Jackson
A. Yes, I did.

Nemeth
Q. Okay, and you heard an announcement on the radio that said 415 deputies involved in some type of disturbance?

Jackson
A. Right.

Nemeth
Q. Okay, and 415 deputies involved, does that typically mean that deputies are fighting with inmates, or inmates are fighting with deputies?

Jackson
A. Yes.

Nemeth
Q. Okay, and you said, what, seconds later?

Jackson
A. It went out code four.

Nemeth
Q. Indicating no further assistance required?

Jackson
A. No further assistance needed.

Nemeth
Q. Okay, and did both of those calls go out while you were still in the ODR?

Jackson
A. No, we were leaving the ODR.

Nemeth
Q. Upon hearing the first call?

Jackson
A. No, we were already leaving the ODR and then the call came out, and we went up on the elevator.

Nemeth
Q. Oh, okay, okay, and who's we?

Jackson
A. I believe I was with Deputy Christolon, and maybe Deputy Howard.

Nemeth
Q. Okay. Well, I have an in-service for that night, let me show it to you, the, maybe it'll refresh your memory. Okay. This shows the 4000 floor, indicates you were the senior deputy, supervising line deputy, and that--

Jackson

A. Right, and Deputy Howard's the control booth officer and Deputy Christolon is 4300 prowl.

Nemeth

Q. Okay, and as you remember it, you were with Howard and Christolon in the officer's dining room?

Jackson

A. Right.

Nemeth

Q. All right. Let me, let me, tell you this, see if this, you know, improves your memory. We've interviewed both Deputy Howard, Deputy Christolon, and Deputy [redacted] Could it have been [redacted] that you were with along with Christolon, you, [redacted] Christolon and Howard being in the booth?

Jackson

A. They could have been, yes.

Nemeth

Q. Oh, good. Because that's that's what they all state--

Jackson

A. Okay.

Nemeth

Q. --so.

Jackson

A. I know we went to chow, because usually the people from the fifth floor would come down and relieve the people on the fourth floor, and we, you know, break it up and go to chow at different times.

Nemeth

Q. Okay. So, how long do you think it took you to get from the ODR to module 4400?

Jackson
A. Anywhere from a minute to a minute-and-a-half.

Nemeth
Q. Okay. And do you know what time this radio call went out?

Jackson
A. No, I don't.

Nemeth
Q. Do you remember approximately what time you went to eat that night?

Jackson
A. It's been over a year, we usually went pretty early to get it over with, out of the way. I'd say (inaudible) around 1 o'clock.

Nemeth
Q. Okay, do you know what time the officers' dining room opens?

Jackson
A. I'm not even sure on early mornings, I think it opens at 12:30.

Nemeth
Q. Okay, that's my information, and if it opened at 12:30, you think it's about 1 o'clock that you were down there?

Jackson
A. Between, between 12:30 and 1 o'clock, we probably got things organized and went there.

Nemeth
Q. Okay.

Jackson
A. So, usually we were pretty much in-and-out first.

Nemeth
Q. All right. So do you know what time, what hour it was, the exact time when you arrived in module 42, 4400?

Jackson
A. Probably around 1:25, 1:30, somewhere in there.

Nemeth
Q. You think it was around 1:30?

Jackson
A. Something like that.

Nemeth
Q. Okay, and you think it took you about one minute or so, maybe a little more than a minute to get there?

Jackson
A. Yeah.

Nemeth
Q. How did you, how did you respond there?

Jackson
A. I'd say at a hurried pace, almost running.

Nemeth
Q. Okay, did you run up the escalators then and run down the hallway, or did you use an elevator, or do you recall?

Jackson
A. I thought we took the, the elevator, but we might have gone up the escalator, I'm not really sure.

Nemeth
Q. Okay. Okay, tell me what you saw when you got inside module 4400.

Jackson
A. When we got inside the module 4400, the inmate was already on the ground, handcuffed, and was bleeding. The module officer,

which was Deputy, I'll have to look, Kluth, he usually worked the kitchen, he was either on overtime or was filling in there, was, visibly, I mean he was breathing heavy. He was, you know, pretty much shaken up and the rest of the, there was three or four other deputies at the time that were there.

Nemeth
Q. Okay. Do you know who they were?

Jackson
A. I know Deputy Sharp was there?

Nemeth
Q. Sharp?

Jackson
A. [redacted]

Nemeth
Q. Or [redacted]

Jackson
A. [redacted]

Nemeth
Q. Okay.

Jackson
A. Sorry, [redacted]

Nemeth
Q. It's [redacted] for the tape, for the transcriber.

Jackson
A. Alright, [redacted] was there, another deputy that worked the kitchen was there, and I don't even know his name.

Nemeth
Q. Well, you can look at the in-service to see if it reminds you of anything, and for the tape, Kluth is K-L-U-T-H.

Jackson
A. Can I look at the rest of the in-services?

Nemeth
Q. Sure, go ahead, it's on the page above.

Jackson
A. I don't know the deputy's name, I know his face, but I don't remember his name.

Nemeth
Q. What does he look like?

Jackson
A. Heavy set, weight lifter guy, white, about 5'10", 5'11", works out a lot.

Nemeth
Q. What color hair?

Jackson
A. Blondish, usually keeps it real short.

Nemeth
Q. Okay. You know his first name?

Jackson
A. The whole time I was at C.J. I was assigned to 4000, 5000 floor on early mornings, and then I went to p.m.'s for a short time, after that, but I didn't work with this person at all. He worked the kitchen.

Nemeth
Q. He worked the kitchen, usually?

Jackson
A. Yeah, it was a big place, I mean--

Nemeth
Q. Right, sure.

Jackson
A. --(inaudible) on earlies.

Nemeth
Q. Uh-huh. Okay, and who else, then, besides this heavy set guy who works out a lot, blond hair, 5'10", a male white, you said [redacted] you said Kluth--

Jackson
A. Okay, I don't know if Wilson was there or not.

Nemeth
Q. What was Wilson's assignment that night? 51, 54 prowl?

Jackson
A. He was 54 prowl. I'm trying to think of anybody else.

Nemeth
Q. Do you know [redacted] Deputy [redacted]

Jackson
A. No.

Nemeth
Q. Don't know?

Jackson n
A. Don't know him.

Nemeth
Q. So, that name doesn't do anything for you? Okay, so does that mean 'cause you don't recognize and no face to attach with it, that person could, could have also been there, and you--

Jackson
A. He could have been there.

Nemeth
Q. --didn't realize it?

Jackson
A. He could have been there, I mean several people could have responded from all over.

Nemeth
Q. Uh-huh. Are they coming back, you think, or?

Jackson
A. I didn't think they were coming back.

Nemeth
Q. It says 1430 (inaudible).

Jackson
A. They're doing role playing and stuff like that, it's just the two (inaudible).

Nemeth
Q. Alright. So, you don't know who was there, so it's possible that he was there, too, right?

Jackson
A. Possible that he was there.

Nemeth
Q. Okay, how about a person named Sloan, S-L-O-A-N?

Jackson
A. Okay, Sloan's the one that, that was there that I recognized. He's the one I described.

Nemeth
Q. The one that usually worked the basement or whatever you were talking about?

Jackson
A. Right. He worked the kitchen.

Nemeth
Q. Okay, anybody besides those people?

Jackson

A. No. I remember Kluth was the first one I talked to, he was the module officer, Sloan was there, [redacted] was there, myself, [redacted] Christolon showed up, right after that, one of the sergeants showed up.

Nemeth

Q. Okay. When you got there, did you come alone or did you come with somebody?

Jackson

A. I, I came with Christolon and [redacted]

Nemeth

Q. Okay, and you all three were in the officers' dining room?

Jackson

A. Yes.

Nemeth

Q. Okay, and when you got there, aside from yourselves, you only saw how many deputies?

Jackson

A. That I can remember, it was three or four.

Nemeth

Q. And those are the ones we just went over, right?

Jackson

A. Right, 'cause I talked to [redacted] because I worked with [redacted] and I recognized Sloan, and Kluth was the module officer, so there might have been some other deputies that were in an out, that I didn't talk to or, you know, just caught a glimpse of, but basically, that's the people that I talked to and saw.

Nemeth

Q. Okay, now you pointed to Wilson, and said it's possible that he was there?

Jackson
A. It's possible that he was there.

Nemeth
Q. Okay. Do you remember seeing him there, or--

Jackson
A. I don't really remember seeing him there, that I can remember, but he might have been.

Nemeth
Q. Alright, besides the three that you remember for sure being there, [redacted] Kluth, [redacted] I'm sorry, [redacted] Kluth, Sloan, is there, do you know, you, you already said you don't know who [redacted] is, right?

Jackson
A. No.

Nemeth
Q. Is it possible there was a fourth person there?

Jackson
A. It's possible.

Nemeth
Q. Is it possible there was a fifth person, fifth deputy?

Jackson
A. It's possible, because the way it's set up, there's tiers, so I know that some of the inmates that were there that were being counseled or that were being talked to with the other inmate were taken downstairs, so those inmate, there could have been those, some deputies with those inmates.

Nemeth
Q. Okay.

Jackson
A. And also, that, since it went out code 4 and we arrived, some deputies could have left shortly after, in passing, that I wouldn't have--

Nemeth
Q. Okay, well that was my next ques-, did you see anybody in passing as you arrived, that, that was leaving or coming out?

Jackson
A. No, I didn't see anybody leaving, when we were coming through the door.

Nemeth
Q. Alright, did you--

Jackson
A. They could have left when I was talking to Kluth, shortly after.

Nemeth
Q. Okay. Did you ask who was involved in the event?

Jackson
A. Yes, I did.

Nemeth
Q. Okay, and who did you ask?

Jackson
A. I asked Kluth, basically, what happened.

Nemeth
Q. Okay. Well, did you ask him specifically who was here, who was involved in this?

Jackson
A. Yes, I did.

Nemeth
Q. You asked him that specific question?

Jackson
A. Well, I said, "Who was involved?"

Nemeth
Q. And what was his answer?

Jackson
A. His answer was that the inmate had gone off on him, that he had gone into a, some sort of altercation, that Sloan had stepped in, and that him and Sloan were basically the two parties involved, and that [redacted] had showed up later to help with the, with the handcuffing or whatever.

Nemeth
Q. Okay. Did he mention [redacted]

Jackson
A. No, he didn't.

Nemeth
Q. Okay. Is it possible he did and you don't remember?

Jackson
A. It's possible.

Nemeth
Q. Okay. Is it possible he mentioned anybody else and you don't remember?

Jackson
A. It's possible.

Nemeth
Q. Okay. Did you review any reports or use of force forms or supplemental reports, or anything in this case?

Jackson
A. No, the sergeant handled everything.

Nemeth
Q. Okay. Do you know, what sergeant was that. Do you remember? You can look at the in-service if that helps.

Jackson
A. (Inaudible) it's been a while. Sergeant Mosley, Van Mosley.

Nemeth
Q. Okay. And how long after you got there do you think Sergeant Mosley arrived?

Jackson
A. Seconds, if not right when we did. We were all probably came in--

Nemeth
Q. Almost simultaneously?

Jackson
A. Almost simultaneously.

Nemeth
Q. Okay, and tell me what, again, what you saw. You said that you saw an inmate that was--

Jackson
A. Handcuffed on the ground, acting irrational, and bleeding.

Nemeth
Q. Okay. Was he hobbled in addition to being handcuffed?

Jackson
A. I remember him being handcuffed, I don't remember if he was hobbled.

Nemeth
Q. Okay. Is it possible he was hobbled?

Jackson
A. It's possible he was hobbled.

Nemeth
Q. Okay, and do you remember how the inmate was lying in, in conjunc-, can you describe in the module where he was?

Jackson
A. Right to the front door to the right, there were some bars, he was lying right there, kind of on his left side, looking up.

Nemeth
Q. Okay. Alright, and do you know what side of the module that is, I mean, I know you said it's on the right as you walk in. Would that be the Able Charley, or the Baker Denver side?

Jackson
A. I don't, not totally sure, but I would say, say it's the Denver Charley side, (inaudible).

Nemeth
Q. Okay, you mean, Denver, Denver Baker.

Jackson
A. Denver Baker.

Nemeth
Q. Okay. And, when you got there which, which way was the inmate's head pointing? If you can describe that for us.

Jackson
A. It was pointing towards the open door, so his feet would have been towards the control booth, or towards the steps, and his head was pointing towards the door.

Nemeth
Q. Towards the door that you enter--

Jackson
A. Right.

Nemeth
Q. --in to get in the module?

Jackson
A. Right.

Nemeth
Q. The main door, what they call the one gate door?

Jackson
A. Right.

Nemeth
Q. His head was pointing in that direction, his feet were pointing towards the module officer's control booth?

Jackson
A. Right.

Nemeth
Q. Okay, and you said he was laying on his left side, which would put his face looking across, towards--

Jackson
A. Right.

Nemeth
Q. --the Able Charley side.

Jackson
A. Right.

Nemeth
Q. So, in other words, you walk in, you looked down you could see his face?

Jackson
A. Right.

Nemeth
Q. And, and actually his head is the first thing you would see.

Jackson
A. He was trying to talk to everybody.

Nemeth
Q. Okay.

Jackson
A. I don't know if he was talking to the sergeant, or whoever, but I was trying to talk to Kluth.

Nemeth
Q. Okay, and when you saw him in that position, you said you saw blood or you saw him bleeding?

Jackson
A. I don't remember if he was bleeding, but there was blood.

Nemeth
Q. Where was the blood?

Jackson
A. Probably right where he was lying just, a, on the, on the ground around him.

Nemeth
Q. Okay. Can you characterize for me how much blood we're talking about, and I don't mean in, you know, milliliters, or quarts, or pints, but just describe how much floor surface was covered by the blood.

Jackson
A. To the best of my knowledge, maybe, I don't a half foot by, I don't know six, it's hard, I mean if it was splattered or not all together, but, I, I really don't remember. I mean, exactly.

Nemeth
Q. You're thinking about six inches though or something (inaudible) foot--

Jackson
A. Something like that, yeah.

Nemeth
Q. --by what, roughly, approximately?

Jackson
A. A couple inches somewhere around his mouth, from around his head, shoulders area.

Nemeth
Q. Okay, that's where you saw the blood in relation to where his body position was there?

Jackson
A. Right.

Nemeth
Q. What, did you see any blood on, on any of the walls or anything like that?

Jackson
A. No, I didn't.

Nemeth
Q. Alright, so that's where you see the inmate, and, the first person you talked to was Kluth?

Jackson
A. The first person I walked in, I talked to, was Kluth.

Nemeth
Q. Okay, and he told you that he, and he was assigned as the module officer that night--

Jackson
A. Right.

Nemeth
Q. --we've all ready determined that. He and Sloan, he said he got involved in a altercation with this inmate, or ding, I think you said referring to a (inaudible).

Jackson
A. Mental observation.

Nemeth
Q. Inmate, went off, and by went off, I think you meant or tell me if, if I'm correct in assuming he, he basically physically attacked him, by went off--

Jackson
A. Right.

Nemeth
Q. --is that right?

Jackson
A. Right.

Nemeth
Q. And, as a result of that, Deputy Sloan came to his aid? Is that what he told you?

Jackson
A. Yes.

Nemeth
Q. Okay. Did you ask him what caused the whole thing to start off with?

Jackson
A. I asked him, and you know, basically he said that he was trying to house the inmates, telling them where to go, he didn't want to go down the row, there was some, he wasn't following directions, he was upset about something--

Nemeth
Q. Meaning this inmate, this particular inmate.

Jackson
A. --meaning the inmate.

Nemeth
Q. Okay. And, so then what happened?

Jackson
A. So, then, I guess he had him on the wall, and was gonna search him or talk to him, and as he went over by him, the inmate turned around and grabbed him, and they began wrestling.

Nemeth
Q. Okay. Now, Kluth was the module officer, how a, did he explain to you how he got into a position where he could exit the module officer's security area to come out and talk to this inmate?

Jackson
A. I believe Deputy Sloan was inside the module.

Nemeth
Q. Is that something he told you or is that something you're just kind of guessing now, or--

Jackson
A. That I remember is Sloan said that he came up to assist the, to assist Kluth, who was inside the module.

Nemeth
Q. Okay. Did Sloan or Kluth tell you what caused them to come up to the module?

Jackson
A. No.

Nemeth
Q. I mean, did he just show up to visit, or did he show up as a request that Kluth or someone made for him to show up?

Jackson
A. I don't know if he was actually requesting him or, or he was just talking and he was just gonna come up. I know they worked the kitchen a lot together. And I don't know if Kluth

was in there on overtime, or was put in the module, or whatever, but for some reason, Sloan was there.

Nemeth
Q. Okay. I guess what I'm asking you is, was Sloan summoned there, by Kluth or someone as a result of this problem with the inmate, or was he there ahead of time, if you know?

Jackson
A. I, I assume that he was there ahead of time, because I never heard anything go out over the radio saying, "Hey, Sloan, come up to 4400," or any type of, anything like that.

Nemeth
Q. Okay.

Jackson
A. So, I just assumed.

Nemeth
Q. So, you were monitoring the radio?

Jackson
A. Yeah, I know that Kluth and Sloan, or, you know, they worked together for a long time. I only worked at C.J. for a year and a half, so.

Nemeth
Q. Okay. So, you figure, that, that Sloan was there ahead of this incident, visiting maybe with--

Jackson
A. Right. Just talking to Kluth.

Nemeth
Q. Okay, and is, is that's not what was told to you, but that's kind of what you assume, right?

Jackson
A. That's what I assumed, I assumed that Sloan was up there talking to Kluth, Kluth got a line in, he was trying to house

them, the one inmate was being uncooperative, Slo-, a Kluth told Sloan, "Hey, watch the module, I'm gonna go out and talk to this guy, see what his problem is, he's a mental obs, I'll send him down." The inmate went off on Kluth, and then back up was called and Sloan came to his aid. That's the way I took the whole thing, situation.

Nemeth
Q. Okay. Alright. I guess that takes me to the next point is. Was anybody in the 4400 module control area, deputy's control booth area when you got to the module?

Jackson
A. Somebody had to be. (Laugh)

Nemeth
Q. You don't remember who?

Jackson
A. I don't remember who, but somebody had to be.

Nemeth
Q. And why do you say there would have had to be?

Jackson
A. 'Cause it seemed to me that there was somebody in the 4400 module control booth.

Nemeth
Q. Is it, is it a violation of jail security rules for anyone to leave that area, un, unmanned, unstaffed?

Jackson
A. Yes.

Nemeth
Q. In other words, there's supposed to be some--

Jackson
A. Somebody in there at all times.

Nemeth
Q. --in there at at all times.

Jackson
A. Right.

Nemeth
Q. So, if Kluth got into an altercation with an inmate that he, as he explained to you, if I'm understanding it correctly, what, what you're telling me is you asked Kluth what happened. He said he has an inmate who's basically being non-cooperative with his instructions--

Jackson
A. Right.

Nemeth
Q. --he, Kluth, tells Sloan, who is already there, visiting with him or for whatever reason, says, watch the module--

Jackson
A. Right.

Nemeth
Q. --I'm gonna step out, and confront this inmate about this, this issue, correct? Okay. Do you know where the inmate was when Deputy Kluth stepped out the module? In other words, was he in the sally port area where, where you saw him handcuffed earlier, or was he on one of the rows?

Jackson
A. I was (Inaudible) in the sally port area.

Nemeth
Q. Okay. Is it a violation of jail rules for a deputy to, to confront an inmate in a one-on-one situation like that?

Jackson
A. Depends on what you mean as confront. I mean, he had somebody in the module (inaudible) to go out there and talk to a guy that's just coming to jail, that might not understand

where, what, what cell he's supposed to go into, what pod, or he might have a problem with areas, obviously he's a mental observation inmate, to go out and just say, "Hey," you know, because we have a P.A. system, so he goes out there, so if he didn't understand the P.A., or didn't hear it, or was confused for any reason, and was going back and forth it's not uncommon to go out there and talk to an inmate one-on-one.

Nemeth
Q. Okay, well, let me--

Jackson
A. If he's non-threatening and non-violent.

Nemeth
Q. Okay. Well, we've already established that Kluth told you that this guy was a mental obs patient, is that correct?

Jackson
A. Right.

Nemeth
Q. Okay.

Jackson
A. Everybody knew he was a mental obs patient.

Nemeth
Q. Okay, okay, so there's no way, he didn't know the guy wasn't a, a mental-type inmate, right, mental patient type thing.

Jackson
A. You know what? Now that I think about it, 4400--

Nemeth
Q. Right.

Jackson
A. --might not be a mental observation module.

Nemeth
Q. Okay.

Jackson
A. No, it's not. 4300 is--

Nemeth
Q. Alright.

Jackson
A. --then 46 and 47, and then there's (inaudible), so 4400's not a mental observation module.

Nemeth
Q. Okay, so when, when Kluth steps out, is it norm--, you said he put him in a searching position on the wall? Is it normal for a deputy to contact an inmate, put him in a searching position in a one-on-one situation, with, without backup?

Jackson
A. Considering that there is somebody in the booth that's watching, that could be considered back-up there?

Nemeth
Q. Is that person available to leave the booth to come out and assist him, should a physical altercation ensue?

Jackson
A. He's there to put out a call, and he's not supposed to leave the module, no. Then again, you've got early morning shift where you don't have a lot of inmates out, and a lot of stuff going on, he might have been the only inmate out, all the inmates locked down, I mean. I don't know if he popped the door open or not.

Nemeth
Q. Okay. So, after you saw this, and you talked to, did you talk to any other deputies beside Kluth?

Jackson
A. Talked to Sloan.

Nemeth
Q. What did he tell you?

Jackson
A. Sloan said that, that Kluth was talking to the inmate, telling him what module or whatever he was supposed to be doing and he just went off on him, and that he put out a call and waited for backup.

Nemeth
Q. Okay, and anything else?

Jackson
A. That's all I remember.

Nemeth
Q. Did Kluth tell you what, exactly, what force he used on this inmate?

Jackson
A. No, he didn't.

Nemeth
Q. Okay. Did you ask?

Jackson
A. I, I, I basically asked him what happened. He said I took him down and I hit him, you know, and he didn't say how many times or anything like that.

Nemeth
Q. Say what he hit him with?

Jackson
A. I don't remember that.

Nemeth
Q. I mean a flashlight, a fist, an object, a hand--

Jackson
A. More or less, I'd say he was wrestling with him, he took him down to the ground, so I don't even remember if he actually, I know that he just more or less, that he began wrestling with him, took him down, then Sloan came to back him up.

Nemeth
Q. Okay. Do you know if Kluth had OC spray in his possession that night?

Jackson
A. I don't know.

Nemeth
Q. Was OC spray used in the incident?

Jackson
A. I don't think so, no.

Nemeth
Q. Okay. Do you know if any of the deputies involved that you saw there had OC spray available to them?

Jackson
A. I know [redacted] had OC spray at the time, but he didn't use it, 'cause he arrived with us. I don't know if the deputies involved, Sloan, Kluth, or, I don't think, I think [redacted] might have had it, I don't, I'm not for sure.

Nemeth
Q. Okay. All right. How about Sloan, what did Sloan tell you he did? What force he used.

Jackson
A. He really didn't, I, when we arrived there, Sergeant Van Mosley was right there, and I kind of stayed there, got the module back in order, talked to some of the deputies, and the sergeant and Sloan and Mosley, and whoever else was involved, kind of went down to the sergeant's office to talk about it, do whatever, right after that, so.

Nemeth
Q. Oh, okay. So, all the, all the people that were saying they were involved in the force all left with Sergeant Mosley?

Jackson
A. That I remember, yeah.

Nemeth
Q. And they went to the sergeant's office?

Jackson
A. I thought it was the fourth floor sergeant's office.

Nemeth
Q. Okay, and, and who then, was left to run the module?

Jackson
A. I don't know if it was either Christolon or [redacted] one of the prowlers that stayed there, or if it was, I think it was either Christolon or [redacted] it might have been [redacted]

Nemeth
Q. Okay. All right, so, I guess the question that started us off on this was, did you ask Sloan exactly what force he used, and I think you said you didn't ask him, and I think you were saying the reason you didn't ask him was the sergeant was already on scene, and he was gonna handle that aspect of the, of the situation.

Jackson
A. Right.

Nemeth
Q. Okay. Did you talk to [redacted] Who was the third person you remember being there.

Jackson
A. Saw [redacted] momentarily. He basically said it was over when he got there.

Nemeth
Q. That's what he told you.

Jackson
A. What I remember is that, he, you know, he said it was pretty much over when he got there.

Nemeth
Q. Uh-huh.

Jackson
A. And that was it.

Nemeth
Q. Okay. So, [redacted] didn't report any specific force to you then?

Jackson
A. Not to me, not at the time.

Nemeth
Q. Okay. Did any deputies say they hit the inmate with a flashlight to you?

Jackson
A. No.

Nemeth
Q. Did any deputy tell you that they kicked the inmate?

Jackson
A. No.

Nemeth
Q. Did, did any deputy involved tell you that they touched, grabbed, squeezed, punched, kneed, anything, the inmate's groin or scrotum area, testicles?

Jackson
A. No.

Nemeth
Q. As far as you were concerned, what injuries did you see in the inmate? You've mentioned some blood.

Jackson
A. It was really hard to tell. I didn't really see any, I mean he was yelling and he was being really loud. He was in a jumpsuit, I didn't really see any injuries at all, I mean (inaudible).

Nemeth
Q. You saw this blood.

Jackson
A. It was (inaudible) blood, but I couldn't tell if it was from a lip, or, you know, whatever, anything like that.

Nemeth
Q. Was it from any of the deputies?

Jackson
A. No.

Nemeth
Q. None of the deputies were bleeding?

Jackson
A. No, I mean Kluth was visually shaken, I mean he was out of breath, you could tell that and everything else, but I didn't see any cuts or scrapes or anything like that on the deputies.

Nemeth
Q. Okay, did any of the deputies complain of injuries, if any, to you?

Jackson
A. No.

Nemeth
Q. Did the inmate complain of injury or pain to you?

Jackson
A. He was being totally irrational, so, he didn't really talk to me, they were taking him to the clinic.

Nemeth
Q. Describe for me what the inmate was doing that caused you to form that opinion.

Jackson
A. He was lying on the ground, he was talking in totally, I mean, you know, just being loud, just like, you know, you can't hurt me, whatever. He was just being loud, he wouldn't be quiet, even at that point, and he was just talking, rambling.

Nemeth
Q. Okay, when you say you can't hurt me, is that something the inmate said?

Jackson
A. Some, well, I believe that he was basically, I mean to the effect, it doesn't no, I'm not hurt type thing, you can't hurt me, whatever, he was being.

Nemeth
Q. Well, and you said he way laying down but that's because he was--

Jackson
A. He was--

Nemeth
Q. --handcuffed and--

Jackson
A. --handcuffed, and, and in a prone position.

Nemeth
Q. --and restrained.

Jackson
A. And restrained, could have been hobbled.

Nemeth
Q. Which would necessitate him to lie down, right?

Jackson
A. Right.

Nemeth
Q. Okay. And, you said even after all that, he was still being loud, what, what's even after all that mean?

Jackson
A. I mean even when we were telling him just to calm down, you know, the nurse is enroute, we'll talk to you later, be quiet, he was still being loud.

Nemeth
Q. Okay. Do you recall anything specifically of what he said?

Jackson
A. No.

Nemeth
Q. Okay. All right, Sergeant Gjendem?

Jackson
A. (Inaudible.)

Gjendem
Q. Is this the training class coming back in.

Nemeth
Q. We'll go off tape here it's 1310. Alright, we're back on tape, the time is 1320 hours. I had a couple quick, additional questions. Deputy Jackson, did you write any notes or any reports on this, I think I might have already asked you that.

Jackson
A. No, I don't think so, not that I remember, no.

Nemeth
Q. Okay. Do you keep a, a notebook that you list or take notes of significant events in the shifts that you work?

Jackson
A. Not all significant events like that on the shift, no.

Nemeth
Q. Okay, have you looked and there's no entries for this event?

Jackson
A. No.

Nemeth
Q. You haven't looked.

Jackson
A. I have looked.

Nemeth
Q. You have looked, and there is no entry? Okay, is that no, 'cause it--

Jackson
A. No.

Nemeth
Q. Uh-uh sounds like uh-huh sometimes for the transcriber.

Jackson
A. No.

Nemeth
Q. Okay. I guess the other question I want to ask you, is this the first time you're being interviewed regarding this case?

Jackson
A. Yes.

Nemeth

Q. Okay, and, did you ever learn what the, what injuries the inmate sustained as a result of this contact?

Jackson

A. No.

Nemeth

Q. Okay. Sergeant Gjendem?

Gjendem

Q. Yeah, when you were downstairs in the ODR down there, you went up with who you thought was Christolon and--

Jackson

A. [redacted]

Gjendem

Q. [redacted] Were you guys all together when you went upstairs, the three of you?

Jackson

A. Yes.

Gjendem

Q. Do you remember who was in the lead, were you running or walking or--

Jackson

A. We were all--

Gjendem

Q. I know a code 4 had gone out--

Jackson

A. We were all pretty much there, probably, I don't even know, probably Christolon, me, [redacted] Christolon, I don't know, we were all pretty much close together--

Gjendem

Q. Okay.

Jackson
A. --about the same, I mean, from the elevator to the 4400 module it's not that far.

Gjendem
Q. Okay, so it would be safe to say within a couple seconds of each other?

Jackson
A. Right.

Gjendem
Q. Okay. You went inside the module?

Jackson
A. Right, somebody opened the door and we went inside.

Gjendem
Q. Do you remember who opened the door?

Jackson
A. I don't--

Nemeth
Q. Was it one of. Alright, we're continuing with Deputy Jackson's interview, your very last part of your answer, I think was cut off. You were saying.

Jackson
A. I don't know if the door was open all the way or part way, or whatever, but we went in, so.

Gjendem
Q. When you were going up the, down to 4000 floor, did you see anybody, any deputy personnel walking out in the hallway?

Jackson
A. No.

Gjendem
Q. Didn't notice anybody?

Jackson
A. No, I didn't notice anybody.

Gjendem
Q. When you arrived in the module, how long had it been since the fight had ended between the deputies and the inmate?

Jackson
A. When the code 4 went out, probably not more than 20, 30 seconds, a minute.

Gjendem
Q. As long as a minute?

Jackson
A. Could have been a minute.

Gjendem
Q. You said you were still down in the ODR, right?

Jackson
A. I can't remember if we were getting on the elevator to go up, when it went out, or exactly when, but, it was pretty short time by the time we went up there, and the code 4 went out and we got there.

Gjendem
Q. Okay. You mentioned some inmates that were inside the, the module area that may have been up in the sally port area, you said some deputies took somebody took somebody downstairs? Could you tell what you saw?

Jackson
A. There was a line. I guess there was like six or seven inmates that were coming into that module, and some of them had gone down a couple of the rows, or had gone down to whatever area, and I don't remember what inmates they were, or where they were, but I know that they came in, in a group.

Gjendem
Q. How did you know that, did somebody tell you that?

Jackson
A. Yeah. He said that they'd, that they'd brought in a line, or a group.

Gjendem
Q. Okay, and do you know where they were?

Jackson
A. No, I don't.

Gjendem
Q. Okay.

Jackson
A. I didn't see any, I mean.

Gjendem
Q. When you were inside the module there, did you see Deputy Romero there?

Jackson
A. I don't remember Deputy Romero.

Gjendem
Q. You don't know who he is?

Jackson
A. I don't remember him being there.

Gjendem
Q. You don't remember him being there.

Nemeth
Q. Do you know him, though, would you recognize him?

Jackson
A. I'd recognize him, he's, he's in training right? Deputy Romero, that works training?

Nemeth
Q. No, he, he works in the central jail, on a different floor. I think he was working (inaudible).

Jackson
A. ...Deputy of the Year.

Nemeth
Q. No, he was working 9000

Gjendem
Q. Working 9000. He was working up in 9000.

Jackson
A. I'd probably recognize him if I saw his face, but I wouldn't recognize the name.

Gjendem
Q. Okay. When, when you got inside the module there, what did [redacted] do?

Jackson
A. When we got there, it was over. I don't think [redacted] did anything.

Gjendem
Q. Didn't do anything?

Jackson
A. Not that I know of, no.

Gjendem
Q. He just left?

Jackson
A. No, he stayed in there for a while, I think he went in to some--

Gjendem
Q. Take over the booth?

Jackson
A. Take over the booth, somebody--

Gjendem
Q. You mentioned it.

Jackson
A. --it was either Christolon or [redacted]

Gjendem
Q. But, you didn't see him do anything there? Okay. At whose direction did he take over the booth, do you remember?

Jackson
A. Hmmm.

Gjendem
Q. Or anybody's.

Jackson
A. It might have been mine because I wanted to talk to Kluth, so knowing that Kluth was the module, was the booth officer, I probably instructed to take over the booth while I talked to Kluth.

Gjendem
Q. Okay, and what was Christolon doing when you got there?

Jackson
A. He, we pretty much, all three, got there together, so he wasn't doing anything either, it was done when we got there. The inmate was on the ground, handcuffed, it was over.

Gjendem
Q. Okay, and you say you believe that Sergeant Mosley got there about the same time you guys did?

Jackson
A. Right about the same time we did, or just slightly before, I mean, it was right there--

Gjendem
Q. Uh-huh.

Jackson
A. I mean, it had to be right after we got there, or right before we got there.

Gjendem
Q. And, what did you see him do right away? When he got there?

Jackson
A. He started telling some of the deputies to, he was try-, he was talking to the inmate.

Gjendem
Q. Okay.

Jackson
A. And he was talking to Sloan, and that's why I was talking to Kluth.

Gjendem
Q. Okay, that's another reason why you probably didn't ask Sloan what happened?

Jackson
A. Right, because basically, he was talking to Sloan, and I was asking Kluth, and then Kluth went over to talk to him, and then he kind of orchestrated what the two deputies were gonna do, and then the inmate and the medical staff was there, and he pretty much just said, "Hey, take care of this, (inaudible), or I'll handle all this."

Gjendem
Q. Did you see Sergeant Mosley take any notes as to what Sloan was telling him what happened?

Jackson
A. I didn't see him take any notes.

Gjendem
Q. No?

Jackson
A. But, he might have.

Gjendem
Q. You mentioned Kluth being out of breath and everything.

Jackson
A. Visibly shaken.

Gjendem
Q. Visibly shaken. Did you see any blood on him?

Jackson
A. Not that I remember. He might have had a little bit on his shirt, but I don't remember seeing any blood on him. I mean, he might have, but I don't remember seeing any.

Gjendem
Q. Okay. And, [redacted] you see blood on him?

Jackson
A. No, I didn't see any on him.

Gjendem
Q. How about on Sloan?

Jackson
A. I don't remember seeing any on him, either.

Gjendem
Q. So, the only person that reported any force to you, then was Kluth.

Jackson
A. Yes.

Gjendem
Q. The only person.

Jackson
A. But he, right, but the other people had talked to the sergeant.

Gjendem
Q. Uh-huh. I understand. We talked about Wilson, the guy that was upstairs, and he was 51, 54 prowl?

Jackson
A. Right.

Gjendem
Q. What's his first name? Is it Wilson or Wilon?

Jackson
A. Is that Wilon or Wilson? Wilson usually works up there, but I don't know a Deputy Wilon. It might have been Wilson, they might have left off the S.

Gjendem
Q. We have a Wilson here?

Jackson
A. Yeah, see where it says ripped?

Gjendem
Q. Yeah.

Jackson
A. So they probably ripped Wilson, and put him here. I didn't notice that at first, yeah, it says Wil, Wilon--

Gjendem
Q. Yes.

Jackson
A. I don't know any deputy Wilon, so they ripped from the 53, 54 module and left Ramirez in there to work both sides and put Wilson in prowl.

Gjendem
Q. Okay, and what did you say Wilson's first name was?

Jackson
A. I don't know his first name.

Gjendem
Q. Well, can you describe him to me? We got more than one Wilson, probably, at C.J.

Jackson
A. Okay. This particular Wilson, you can't miss him. He's probably 45, 46 years old, six foot three, six foot four. I played basketball with him quite a bit, I just can't remember his first name.

Gjendem
Q. Male white?

Jackson
A. Male white, like I said 45, somewhere around--

Gjendem
Q. Okay.

Jackson
A. Plays basketball, he's always winning the three on three competition in the Sheriff's Olympics.

Gjendem
Q. Okay.

Jackson
A. Big into archery and stuff.

Gjendem
John.

Nemeth
Q. Okay, do you know where this altercation first began?

Jackson
A. No, I don't.

Nemeth
Q. Okay, and did you ask Kluth when it started or how long it had gone on before you got there, or anything like that?

Jackson
A. I asked Kluth just basically what happened.

Nemeth
Q. Short story, short version.

Jackson
A. Right.

Nemeth
Q. Did you recognize the voice you heard on the radio that initially announced the 415 deputies involved call that you heard?

Jackson
A. I don't remember who's voice it was.

Nemeth
Q. Was it male or female?

Jackson
A. I, I don't remember.

Nemeth
Q. Okay. Did Kluth have a radio that night?

Jackson
A. No. He shouldn't have had, he's a module officer.

Nemeth
Q. Based on his assignment?

Jackson
A. Right.

Nemeth
Q. Okay. But, you don't remem-, have an independent recollection?

Jackson
A. No, I don't know if he did.

Nemeth
Q. Okay. Sloan?

Jackson
A. Sloan should have had a radio if he was working in the kitchen.

Nemeth
Q. Okay, and [redacted]

Jackson
A. [redacted] was working prowl, he should have a radio.

Nemeth
Q. Okay. When you arrived in the module, did you see any inmates who might have been in a position to witness this event?

Jackson
A. I remember that there was a couple in the shower area, but as far as any of the witness, and any of the inmates that might have witnessed it, no I don't remember seeing any.

Nemeth
Q. Okay. Did anybody ask that inmate what they saw?

Jackson
A. I mean, yeah, later, when the investigation (inaudible) I'm sure the sergeant interviewed and asked the inmates that were in the shower if they'd seen anything.

Nemeth
Q. Okay.

Jackson
A. Or the deputies, one or the other.

Nemeth
Q. But, do you know that for yourself, I mean, you're kind of guessing at that.

Jackson
A. No, I don't.

Nemeth
Q. Okay, and do you think it was more than one inmate that was in that shower?

Jackson
A. Could've been two. Could've been one. I don't remember.

Nemeth
Q. Which shower are we talking about. If you want to describe it --

Jackson
A. -- Going to the right. I'm thinking it's the C & D Section on this side. As -- as the inmates line here, right to the right there's some showers and nothing else.

Nemeth
Q. Okay. C & D don't go together. It's A & C on one side and B & D on the other.

Jackson
A. Okay, yeah, it would've been the tiers on the right side which would've probably been A & C, D & okay.

Nemeth
Q. Baker, Denver.

Jackson
A. Baker, Denver.

Nemeth
Q. Okay.

Jackson
A. Well, you know, it's -- when you look at the module and you're facing out one side is to your right, left.

Nemeth
Q. That's right.

Jackson
A. -- Trying to figure out.

Nemeth
Q. Okay. No problem. Now, so -- would that have been the shower as you walk in to the right?

Jackson
A. Yes.

Nemeth
Q. Okay. So, is that the shower closest to where the inmate was laying when you got there?

Jackson
A. Yes.

Nemeth
Q. Is that the lower or upper shower?

Jackson
A. I believe it was the lower.

Nemeth
Q. Okay. What you've described and what I know of the module that would be the Baker row showers.

Jackson
A. Okay.

Nemeth
Q. I mean, do you agree with that?

Jackson
A. Yeah.

Nemeth
Q. Okay. Did you ask Sloan if there were any witnesses to the event?

Jackson
A. No, I didn't.

Nemeth
Q. Did you ask Sloan who was involved?

Jackson
A. Not really. Kluth told me. (Inaudible)

Nemeth
Q. Okay. So you just got that story from Kluth and --

Jackson
A. -- Right --

Nemeth
Q. -- and didn't ask Sloan? Did you ask [redacted] who was involved?

Jackson
A. I talked to [redacted] and he basically, you know, from what I can remember he said that when he got there it was pretty much -- it was over. I don't know if he helped handcuff or whatever, but it was over. He basically, you know -- "I didn't do anything." -- you know.

Nemeth
Q. Okay. And he didn't ask and you didn't tell him who else was involved? I mean, you -- you didn't ask him and he didn't tell you who else was involved?

Jackson
A. No. From after talking to -- to Kluth I figured it was pretty much the way he made it sound as like, he talked to this guy, the guy went off, Sloan put out for back up, came up to help him, they took care of it and some people put out a code 4.

Nemeth
Q. Okay. Did he say Sloan put -- put out some kind of a request for back up? Did Kluth say that to you?

Jackson
A. From what I remember, yeah. Sloan did put out a request for back up.

Nemeth
Q. Okay. This is Kluth telling you that, right?

Jackson
A. From what I remember, yeah.

Nemeth
Q. Okay, did he say -- did Kluth say how Sloan put out a request for back up?

Jackson
A. No.

Nemeth
Q. All right. And did Kluth or Sloan or anybody tell you, just once again I may have already asked you, did anybody tell you how long, what the duration was of this altercation event?

Jackson
A. No.

Nemeth
Q. Okay. Did you ask?

Jackson
A. No.

Nemeth
Q. Okay. Now I want to get kind of detailed with you. If you can describe for me exactly, to the best of your abilities, where Kluth was standing when you arrived -- when you, [redacted] and Christolon arrived together and I guess the sergeant arrived immediately following you. So, where was Kluth standing when you get there?

Jackson
A. Best to my knowledge, right by the front booth door.

Nemeth
Q. Meaning the module officer 4400 --

Jackson
A. -- Right --

Nemeth
Q. -- module officer's control booth area?

Jackson
A. Right.

Nemeth
Q. On the outside of it or on the inside of it?

Jackson
A. Could've been just on the inside, somewhere in that right area.

Nemeth
Q. Okay. You remember it being, though, inside that door?

Jackson
A. Yes.

Nemeth
Q. Right? And that door swings inward, correct?

Jackson
A. Yes.

Nemeth

Q. Okay. In other words, by inward I mean it swings into the -- the module officer's booth area, doesn't pull out, it pushes in.

Jackson

A. Right. Right.

Nemeth

Q. Okay. And where do you remember Sloan being?

Jackson

A. In the sally port area right there, either by the -- I don't know -- to the best of my knowledge either the sergeant got there right when we did or he was just right there before we did. So he was right there with that group to the right, I think, sergeant and everybody.

Nemeth

Q. You think the sergeant got there ahead of you?

Jackson

A. You know, he was either there right before we got there or right after we got there but it was like real -- real close.

Nemeth

Q. Okay. Well, just try to remember where was Sloan? Was he inside the -- the booth or was he outside the 4400 booth?

Jackson

A. Can't remember.

Nemeth

Q. You can't remember?

Jackson

A. Un-uh.

Nemeth

Q. How about [redacted]

Jackson
A. [redacted] was outside the booth.

Nemeth
Q. Okay. Where was he standing?

Jackson
A. He might have been over by the -- the showers right there by the bars by the shower. Right there in that area.

Nemeth
Q. By that Baker row shower, where you saw the inmate?

Jackson
A. Right.

Nemeth
Q. Okay. Was he standing, kneeling, sitting or?

Jackson
A. Standing.

Nemeth
Q. How did he appear?

Jackson
A. He appeared like everything was pretty much calm. I mean, he -- I mean he -- I mean like he might have run there or something but he didn't appear, you know, shaken like Kluth.

Nemeth
Q. Was he out of breath? I'm referring to [redacted]

Jackson
A. Best to my knowledge, no.

Nemeth
Q. Okay. Was his uniform somewhat disheveled or pulled out as if he had been involved in a scuffle?

Jackson
A. No.

Nemeth
Q. How about Sloan's uniform appearance?

Jackson
A. You could tell Sloan -- Sloan had been involved. He was -- he was a little bit, you know, out of breath, talking (inaudible) but he didn't look, you know, disheveled or anything like that.

Nemeth
Q. Uh-huh. And now you said that these are the three individuals you remember for certain being there. [redacted] Kluth, Sloan, correct?

Jackson
A. Right.

Nemeth
Q. Now, did you see any other deputies in the area?

Jackson
A. There might have been some other deputies. I mean, they might have had their back to me, they might have been by the sergeant, they might have been over there, but I -- I was talking to Kluth. I remember seeing [redacted] when, I was there with Christolon, I was there with [redacted] you know we responded. And, you know...

Nemeth
Q. Okay. So it's possible there were other deputies with their backs towards you and you had your attention focused primarily on Kluth and what he was saying to you --

Jackson
A. -- Right. --

Nemeth

Q. -- and so if there were other deputies there you didn't notice who they were, but it's --

Jackson

A. -- it's possibility.

Nemeth

Q. -- it's possible that there were additional deputies there aside from all the people we've talked about. Right?

Jackson

A. Right.

Nemeth

Q. You just don't know who they are?

Jackson

A. They could've left when we got there, too. 'Cause obviously if there's a sergeant or bonus, the people involved and then Christolon and [redacted] -- Christolon and [redacted] the prowlers on that floor they're basically gonna handle it. So, the other people that might have been there might have just kind of -- they weren't involved or they just came to -- to, you know, (inaudible) to see what's going on. They might have left.

Nemeth

Q. Okay. Do you remember anybody in that position that -- that just filtered out?

Jackson

A. No.

Nemeth

Q. Alright. Sergeant Gjendem.

Gjendem

Q. Yeah, I think you said a minute ago. Getting back to [redacted] here. [redacted] didn't report any force to you, using any force to you. Did he tell that he didn't use any force or -

- I've got a quote here, "I didn't do anything." Is that what he told you? "I didn't do anything."

Jackson
A. I just remember, you know, asking, "Hey, you didn't use any, you know, you didn't use any or -- I -- I --

Gjendem
Q. -- [redacted] told you he didn't use any force, then?

Jackson
A. Not that I remember. I don't remember. He might have said he helped handcuff him or whatever, but I don't remember him actually coming out and telling me he used force.

Gjendem
Q. Okay.

Jackson
A. I don't remember if the sergeant got there right before we did or got there when we did. It was real close. I mean, when it came out everybody kind of went, you know, --

Gjendem
Q. -- Uh-huh.

Jackson
A. So, I was tossed into the booth and the inmate was down, medical service was being called. I was telling Christolon and [redacted] and Sergeant Mosley was handling, you know, what was going on over there.

Gjendem
Q. Uh-huh. Okay.

Jackson
A. When I got there it appeared pretty code 4. There were no inmates running around. It was the early morning shift. They were locked down. The inmate it was on the ground handcuffed. The sergeant was there, the prowlers were there. Kluth was visibly shaken. I was talking to him. You know, Sloan was

there. [redacted] was there. That's what I remember of the incident.

Nemeth

Q. Okay. Well, just let me try to pinpoint this in, 'cuz what you said was you -- you kind of -- kind of, you know, referenced [redacted] telling you he had a minimal role in the event and you said he said something like, "I didn't do anything." Is that -- is that our best memory of it?

Jackson

A. If anything a minimum role.

Nemeth

Q. He portrayed his role to be minimal to -- to your recollection?

Jackson

A. Best of my recollection. I mean, he didn't seem all -- no, he pretty much was just -- I just got here too right before you did. I mean, it was like we just kinda -- I mean it was almost like Sloan and Kluth had taken care of it and it was down and a couple of people showed up then everybody showed up then everybody just kinda, you know like it was no -- it was just not, you know, not a big major incident.

Nemeth

Q. Okay. Okay. Did Kluth ever tell you exactly what the inmate did to him. Aside from you -- you characterize it as win off. I'm just trying to draw out exactly what happened.

Jackson

A. I remember him saying something about the inmate grabbing him and trying to choke him or was wrestling with him. Basically tried to grab him, choke him, was wrestling with him. I don't know if there were punches thrown or whatever, but he said the inmate turned around and grabbed him, was choking him and they were wrestling.

Nemeth

Q. Okay. Did -- and that's the extent of his statement to you about what the inmate did to him?

Jackson
A. Right.

Nemeth
Q. Okay. Did Sloan say the inmate did anything to him, punch him, choke him, wrestle with him, kick him?

Jackson
A. No, he said the inmate basically turned around and started choking Kluth.

Nemeth
Q. Okay. And -- and he didn't say that the inmate did anything to him?

Jackson
A. No, not that I remember.

Nemeth
Q. Okay. How about [redacted]

Jackson
A. No, not that I remember.

Nemeth
Q. And [redacted] if I understand you're -- you're recollection of what he told you, he basically is saying I was minimally involved. I got here just before you did and I didn't do anything. Things of that nature.

Jackson
A. Right. Right.

Nemeth
Q. That's what [redacted] was telling you. Things along those lines.

Jackson
A. That's pretty much -- I mean I didn't really talk to him much because he was trying to (inaudible) talk to Kluth but,

yeah, I don't remember him saying that, you know, he really got into it with this guy.

Nemeth

Q. Okay. All right. That's all I had.

Gjendem

Q. No I don't have anything else.

Nemeth

Q. Okay. Is there anything, Deputy Jackson, that you want to add that you feel is relevant, important, pertinent to this -- this aspect of the investigation that we've been talking to you about?

Jackson

A. Like I said, when I got there, Deputy Sloan, seemed like he was pretty much in control of the situation and was talking to the sergeant and whatever and Kluth just seemed visibly shaken. You know, out of breath, red in the face, you know, visibly shaken and like I said Deputy [redacted] didn't seem -- the whole situation did not seem like it was a major -- it just seemed like everybody just -- Kluth went out there to talk to him. For some reason the guy just went off, grabbed him, started choking him. Sloan put out the call. Kluth wrestled with him for a while. Sloan went out. They took him down. They handcuffed him and some deputies arrived. There was a lot of inmates out. It was basically just, you know, cut and dry.

Nemeth

Q. And that's how they related it to you, right? That's what you're stating?

Jackson

A. I mean -- I mean they did say they had to fight with the guy and the guy was strong. That the guy was you know a ding. You know he wouldn't listen. He was obviously yelling and everything else but Van Mosley -- Sergeant Mosley was talking to him and it was then medical staff was showing up and it wasn't a real big -- it wasn't a lot. You know, it was not a big incident.

Nemeth
Q. Okay. Did -- and again what you're stating to us is what you understood from talking to all the -- the deputies that we just talked about.

Jackson
A. -- Yeah, we just talked about there.

Nemeth
Q. Okay. Did -- again, just to reiterate, did any deputy say the inmate punched them, to you?

Jackson
A. He -- not to me.

Nemeth
Q. Okay. Did any deputy tell you the inmate kicked him?

Jackson
A. He -- then again I remember he was choking him and Sloan -- he might have tried to kick him when he took him down --

Nemeth
Q. No, that's not the question. The question is did any deputy tell you --

Jackson
A. -- No. --

Nemeth
Q. -- that the inmate kicked him?

Jackson
A. No.

Nemeth
Q. So, just trying to summarize again. I underst-, if I understand you correctly, the only deputy that told you, described any violence directed at deputy on the inmates, by the inmate, was Deputy Kluth and that -- that violent act the inmate

did to him was attempt to choke or strangle him and get him in some kind of hold and they were wrestling together, correct.

Jackson
A. Right. But then when Sloan came out to get the inmate off of Kluth, I don't know what took place next.

Nemeth
Q. That's right because nobody told you. That's all we're asking you.

Jackson
A. Nobody told me. No.

Nemeth
Q. That's all we're asking you is what you were told. You weren't there, correct?

Jackson
A. No.

Nemeth
Q. When the -- when the -- when the altercation was ongoing?

Jackson
A. No.

Nemeth
Q. Okay. So, you witnessed absolutely no force personally, correct?

Jackson
A. Nothing.

Nemeth
Q. Okay. So that's all we're going by. All you're gonna know then is what you were told --

Jackson
A. -- Right. --

Nemeth
Q. -- and that's all we're asking you for. Did you later learn what the inmate's injuries were?

Jackson
A. No.

Nemeth
Q. Did you ever learn that the inmate had lost a testicle as a result of blunt force trauma?

Jackson
A. No.

Nemeth
Q. Did any deputy involved that night describe to you any force that would be consistent with that injury?

Jackson
A. No.

Nemeth
Q. All right. That's all the questions I have.

Gjendem
Q. Did you know if there was a 49 written listing the inmate as a suspect and Kluth as the victim of an assault?

Jackson
A. Yes, I did.

Gjendem
Q. You did.

Jackson
A. I knew that -- that basically Kluth and Sloan were writing the 49 on the inmate and that the use of force was all explained in the memo and also in the 49.

Gjendem
Q. In the memo?

Jackson
A. I don't know if there was an additional memo written with the -- with the 49 or if it was all in the 49.

Gjendem
Q. Okay. Is there any photos of the deputies taken?

Jackson
A. I don't know. I -- I don't know.

Gjendem
Q. Did you take any?

Jackson
A. I didn't take any photos.

Nemeth
Q. Do any exist to your knowledge?

Jackson
A. Not to my knowledge.

Nemeth
Q. Okay. All right. That's it.

Gjendem
Q. Did you ever -- did you ever inquire as to the length of time the fight lasted?

Jackson
A. Not to the exact length of time, no. I did not.

Gjendem
Q. No?

Jackson
A. Because of the short time where it went out 415 deputy involved, code 4, sergeant there, I was there. I just assumed that it was not a, you know a major alarm.

Nemeth
Q. And the reason for that assumption is the short duration between the first time it was announced on the...

Jackson
A. Right.

Nemeth
Q. ...radio and when it was announced to the floor.

Jackson
A. -- Right -- short time that we got there -- and when we got there we walked in and here's the inmate cuffed on the ground.

Nemeth
Q. -- Right. Right, now --

Jackson
A. -- you know, --

Nemeth
Q. Let me just -- I think I covered this area but let me just reiterate. Do you know at what point the radio notification was made?

Jackson
A. No, I don't.

Nemeth
Q. Okay. So, in other words, it could've happened immediately upon the -- the altercation between the inmate and Kluth happening or could've been made at some point some minutes, seconds, or whatever after they had begun an altercation, correct?

Jackson
A. Sure.

Nemeth

Q. It actually could've been made just, you know, moments before the event ended and the event could've been ongoing for several minutes, even, correct?

Jackson

A. That's true.

Nemeth

Q. Okay.

Gjendem

Q. And you don't know who put that information out on the radio?

Gjendem

Q. Did you ever inquire as to who put that out?

Jackson

A. No. I -- I -- I assumed that the way it sounded like (inaudible), but it could've come from main control. I mean, you know, that's true. I mean, from where the door is to where the module and the deputy sits there's the phone. And if Kluth had a radio he could've immediately done it. If Kluth didn't have a radio he could've gone and used the phone and called the booth and say, "Hey, we've got fighting here." You know. So, I don't know if -- if -- when he saw the inmate jump, you know, Kluth, he went out there to help them and realized, "Hey I gotta get back .." --

Nemeth

Q. -- All right, I'm gonna ask you this. We -- we talked to, as I told you we've already talked to [redacted] and Christolon and -- and we had to get your best memory of it. That's why.

Jackson

A. I say, It's over a year ago. --

Nemeth

Q. --Right. No problem. --

Jackson
A. -- there was no big -- like when I walked in it was code 4, you know sergeant's there, there was all these people, he's down, you know --

Nemeth
Q. Okay. What [redacted] and Christolon essentially remember is that [redacted] remembers getting a radio call to 10-21 to telephone the 4000 patrol booth person who was Deputy Howard that night and -- and that's substantiated by Deputy Howard. She says, "Yeah, that's what I did." And she said the reason she did that is because the event was already over and she wanted to notify her prowlers, [redacted] and Christolon --

Jackson
A. -- Right. --

Nemeth
Q. -- and you. She knew you were also down there and that [redacted] phoned her and she explained, "Yeah, there had been an -- an event in the 4400 module." And you all were needed up there and you then responded. Does that --

Jackson
A. That could have been.

Nemeth
Q. That could have been?

Jackson
A. Because, I, I, from my knowledge I -- I pretty much thought it was on the radio. But it could've been, you know, [redacted] saying, "Hey, we got to go.

Nemeth
Q. Okay, because [redacted] in fact, had a radio on him and -- and as did the module person also have -- I mean the 4000 control person, Howard also had a radio with her. She said it was never broadcast on the radio.

Jackson
A. Said it was never broadcast on the radio?

Nemeth
Q. That's -- that's what they remember.

Jackson
A. It -- it might -- I mean, to my knowledge I thought it came out over the radio, that there was a 415 and then it went code 4, so.

Nemeth
Q. Mm hum. Okay.

Jackson
A. It could've been from (inaudible).

Gjendem
Q. Were you going to eat or had you finished eating?

Jackson
A. You know, honestly, to tell you the truth I don't remember. I noticed -- I know that we were heading down that way that we might have got there and came back or we had just finished. Either way, I, I really don't remember. Because I know it was like either going or coming. I thought we were coming. You know, done. But, at that time, like I say, Kluth didn't work on that floor. Sloan didn't work on that floor and the people that worked in my modules and the people that I worked with, we had a way of doing things. And that's just the way I wanted it done and, you know, that whole incident, the way it happened with -- with Sloan and Kluth was not the way other incidents had ever happened on that floor.

Nemeth
Q. Let me get the last part --

Jackson
A. -- (inaudible) that's when Sergeant Mosley was there and talking to him that he kind of took it over and I kind of just said, "Fine." You know, if you're here, you're the sergeant

then that's fine. Because like I said I didn't work with Kluth and I didn't work with Sloan and if I would've had another module officer that was in there, might've been -- you know that I have worked with that was a regular officer that I'd talked to and done things on -- on both 4 and 5 which were my two floors, it might have been handled differently.

Nemeth
Q. Okay. There was one part there, one passage I wanted to reiterate because I'm not sure if it's gonna pick up early on the tape and that is you said something like, "Kluth and Sloan both didn't work on your floor, they were not regulars. Kluth was working overtime that night filling in in the module and Sloan was assigned to the basement. So, neither of these people worked for you. You didn't have a lot of dealings with them and you said something about, "That's why the incident happened the way it did, 'cause were it been one of your regular people it wouldn't have gone this way." Or something like that. Is that what you're saying?

Jackson
A. Three of the modules that are on that floor are mental observation modules. And 44, a lot of times guys that get declassified out of a minimum observations out of 43 go to 44. So, for me I think there was a ding or the guy was acting like a ding. You know, crazy. That's what we dealt with on a -- on a regular basis.

Nemeth
Q. All right.

Jackson
A. And because of that, I had, you know, we had very minimal, on that floor, we had a way of talking to people and doing things. I mean--

Nemeth
Q. So when you say very minimal, you mean very minimal instances where force was required?

Jackson
A. Yes.

Nemeth
Q. Okay. All right. Anything else.

Gjendem
A. That's all.

Nemeth
Q. Okay. Thank you for your time. Deputy Jackson, we'll end the interview. The time is 1350 hours.

END OF INTERVIEW

ADMINISTRATIVE RIGHTS/SWORN WITNESSES

NOTE: This admonition is for Department personnel who are being interviewed in the capacity of SWORN WITNESSES.

I am **Sergeant John Nemeth** and this is **Sergeant Ernie Gjendem** of the Internal Affairs Bureau, which is commanded by Captain Norman L. Smith.

You are about to be questioned as part of an official Los Angeles County Sheriff's Department administrative investigation. You are here as a witness in a matter which concerns another employee. The complainant has not filed a complaint against you, and you are not under investigation as a subject in this matter.

Do you have a Policy and Ethics Chapter of the Manual of Policy and Procedures? Yes [X] No [ ]

Are you familiar with its contents? Yes [X] No [ ]

You are hereby advised that the provisions of the Government Code, generally referred to as the Peace Officers' Bill of Rights, do not apply in this instance. You are specifically reminded that Policy and Ethics Section 3-01/040.70 and 3-01/040.75 require that you make true, full and complete statements. Any refusal to do so may result in your discharge or other punitive action.

NOTE: Sworn personnel being interviewed as witnesses only and who are not under investigation or not personally charged with any violation do not have a right to have a representative present during the interview. If it is determined during the interview that the deputy is likely to be subject to discipline, the interview shall be stopped and the deputy shall be advised that his status has changed to that of a subject.

In the event the witness declines to answer questions on the grounds of self-incrimination, the witness/employee shall be readvised of his administrative rights as though he were a subject. **You are being ordered not to discuss the facts of this case or any of the issues discussed during your interview.**

Initials ______

The above admonition has been explained to me and I understand its contents.

DATE: **November 16, 1995** FILE NO. **IAB 008383**

Person Interviewed: ______________________ MICHAEL [illegible] [redacted]
(Signature) (Print)

INVESTIGATOR: ______________________ JOHN A. NEMETH
(Signature) (Print)

NURSE INES LEAL
I.C.I.B. INTERVIEW 12-20-94

WITNESS INTERVIEW

CASE NUMBER 494-00023-2300-444

INES LEAL

Hamilton
Q. Okay, today's date is December 20, 1994. It's approximately 0018 hours. I'm here at Men's Central Jail in the Doctor's Line, that's an office where the doctor examines inmates. We're gonna be discussing an incident that occurred on October 27, 1994, at approximately 0030 hours, on early morning shift, here at Men's Central Jail in Module 4400. I'm here talking to RN, Registered Nurse Ines Leal, L-E-A-L, Employee Number [redacted]. This case is being investigated under ICIB File Number 494-00023-2300-444. Nurse Leal, were you working on October 27, 1994, early morning shift, here at Men's Central Jail?

Leal
A. Yes, I was.

Hamilton
Q. Okay, where were you assigned?

Leal
A. I was assigned in the clinic, Men's Central Jail.

Hamilton
Q. Okay. Did you receive a, a call to respond up to Module 4400?

Leal
A. Yes, I did.

Hamilton
Q. Okay. First of all, who called you?

Leal
A. I can't remember whoever deputy was that.

Hamilton
Q. Okay. Did you actually receive the call, or did someone else receive the call?

Leal
A. I can't remember.

Hamilton
Q. Okay. You went up there to Module 4400?

Leal
A. Yes, I did.

Hamilton
Q. Okay, can you tell me what happened?

Leal
A. I went up there with a deputy escort and a trustie and I found an inmate lying on the floor, with pool of blood on his head, talking incoherently, and he appeared confused and disoriented.

Hamilton
Q. Okay. Then what happened?

Leal
A. He was kind of, like agitated, maybe you could call it agitated, but he was kind of cooperative, both hands, he was hog-tied, and we transported him back here to the clinic.

Hamilton
Q. Okay. Then what happened?

Leal
A. We examined him, we cleaned up, you know, the dried blood that was in his head, and we examined the other injuries that he had, and we called the doctor to examine him.

Hamilton
Q. Then what happened?

Leal
A. Af-, when the doctor came and examined him, the doctor sent him to, decided to send him to the hospital, LCMC.

Hamilton
Q. Okay. And is that it?

Leal
A. Yes.

Hamilton
Q. Okay, now let's start back from the beginning. You said that there was a phone call down here in the clinic and you were asked to go up there to Module 4400, correct?

Leal
A. Correct.

Hamilton
Q. Okay. You say that you went, you were accompanied by a deputy and a trustie. Do you remember which deputy?

Leal
A. No, I can't remember.

Hamilton
Q. Okay, if I showed you an in-service, you know, deputy in-service, would you name, would that help you?

Leal
A. What do you mean by in-service?

Hamilton
Q. Meaning who was working in the clinic. It's like a roster, a personnel roster?

Leal
A. Oh. I don't really know if I could remember who was the deputy that was with me.

Hamilton
Q. Okay, no problem. So you went up there and you said you saw an inmate laying on the floor in a pool of blood, correct?

Leal
A. Yes. Uh-huh.

Hamilton
Q. Okay. Can you tell me where the inmate was located in the module? As you go walk in the front door of that module, that

front door...

Leal
A. ...Uh-huh...

Hamilton
Q. ...going towards that officer control booth...

Leal
A. ...Uh-huh...

Hamilton
Q. ...was he to the right or left as you're facing that control booth?

Leal
A. To the right hand side.

Hamilton
Q. Okay. Was he near the row gates or was he closer to the hallway door?

Leal
A. Just, you know, when you go into the hallway, building 4400?

Hamilton
Q. Right.

Leal
A. You know, there's like a gate by the right hand side, about, approximately about two feet or two feet away from that gate.

Hamilton
Q. Okay. So it you're, if you're facing the control booth, are you saying he was to the right of that...

Leal
A. ...Yes...

Hamilton
Q. ...about two or three feet?

Leal
A. Yes.

Hamilton
Q. Okay. Do you remember which way he was facing?

Leal
A. No, I can't remember.

Hamilton
Q. (inaudible) Okay, and you said he was in a pool of blood. Was there a lot of blood, or a little blood?

Leal
A. Like about approximately 150 cc's, maybe.

Hamilton
Q. Okay, well, I'm not a doctor. Is that a lot or a little? Or a moderate amount?

Leal
A. Moderate amount.

Hamilton
Q. Okay. Do you know where he was bleeding from?

Leal
A. From, that, that time, I thought it was from the head. Somewhere in the head because the pool of blood was right there by the head.

Hamilton
Q. Okay. Did you notice any injuries on his face or body or anywhere?

Leal
A. At that time?

Hamilton
Q. At that time.

Leal
A. I didn't notice yet, but I knew that that blood came from

somewhere, but I haven't, I haven't, I was not sure yet where the, the blood was coming from, but I, I thought that it was from the head.

Hamilton
Q. So did you do a visual examination, or no?

Leal
A. Yes, I did, but because of the dried blood around, you know, on the face and the head, I really could not tell where, where it was coming from until we cleaned him up in the clinic.

Hamilton
Q. Did you ask him, at the time, where he was hurting?

Leal
A. Yes, I did, but he was talking incoherently.

Hamilton
Q. When you say incoherently, and I notice you also used the word, he was agitated. Can you explain incoherently or did he appear to be confused, what do, what do you mean by that?

Leal
A. Like he was, to me he was talking like different kind of subjects, like, like he doesn't make any sense.

Hamilton
Q. Okay.

Leal
A. That time though, when I was, when I...

Hamilton
Q. ...Okay...

Leal
A. ...when I went to 4400.

Hamilton
Q. Did he appear to be in any pain or discomfort when you went up there to module 4400? Was he calm, was he screaming, was he yelling, was he complaining about any pain or injury?

Leal
A. He was kind of, he was, he was yelling and kind of restless that time.

Hamilton
Q. Okay. Would you say that he appeared to be in pain versus being angry?

Leal
A. I don't think so.

Hamilton
Q. You don't think he was in any pain?

Leal
A. No. I don't think so.

Hamilton
Q. When you said he was agitated, what did you mean by that?

Leal
A. That's, that's like when I said he was kind of restless...

Hamilton
Q. ...Well, what is...

Leal
A. ...Was kind of upset, something like that.

Hamilton
Q. What do you mean by that? What was he doing?

Leal
A. Cause he was talking something like, something like he was in a fight, some, somebody beating him up, something like that.

Hamilton
Q. Okay. Did he tell you who beat him up?

Leal
A. At that time, no. He was, he was just talking that he was fighting with somebody, but he didn't mention anything about who did it.

Hamilton
Q. Okay. Was he answering your questions?

Leal
A. That time, the first time when I looked at him, no. He was just talking, talking, talking, and, you know, it's, it doesn't make any sense to me.

Hamilton
Q. You said also, was, was he handcuffed when you got up there?

Leal
A. Yes.

Hamilton
Q. Was he also, what else did they have on him? Did they have any restraints on him?

Leal
A. You know what, I can't really remember if... He was handcuffed, I'm sure, but I don't know, I can't remember with the legs.

Hamilton
Q. Okay.

Leal
A. If it was restrained or something.

Hamilton
Q. Did you notice any deputies around there, other than the one that was up there with you?

Leal
A. Oh, yes. There were a lot of deputies there.

Hamilton
Q. How many?

Leal
A. I can't remember.

Hamilton
Q. Was it two?

Leal
A. More than that.

Hamilton
Q. Five?

Leal
A. Maybe, I'm not sure though.

Hamilton
Q. Could it be ten?

Leal
A. Less than that, I guess.

Hamilton
Q. Okay. Did you recognize any of them?

Leal
A. I can't remember.

Hamilton
Q. Okay. No problem, no problem, you're doing fine, doing fine. Okay. Okay, once you got this guy on the gurney, you went down to the clinic, you returned to the clinic, correct?

Leal
A. Yes.

Hamilton
Q. Did, who went with you? Was it the deputy that went up there with you (inaudible)?

Leal
A. Yes, the deputy who was with me, the trustie and, I think, two or three more deputies came with us.

Hamilton
Q. Okay. Do you remember Deputy [redacted], from up there?

Leal
A. If, if he was with me?

Hamilton
Q. Yeah.

Leal
A. I can't remember.

Hamilton
Q. I'm asking you, do you remember him, coming down with you from 4400?

Leal
A. I can't remember.

Hamilton
Q. Okay. Looking here on the Inmate Injury Report that was filled out after the incident on October 27th, this is your signature, correct?

Leal
A. Yes.

Hamilton
Q. Okay, and down here it says that, Deputy [redacted] submitted the paperwork. [redacted] Employee Number [redacted]. Do you recall this deputy?

Leal
A. Yes.

Hamilton
Q. Do you know who he is?

Leal
A. Uh-huh.

Hamilton
Q. Okay. Do you remember him coming down with you, or did he come down later, or do you recall?

Leal
A. I can't, I can't remember.

Hamilton
Q. Okay, no problem. So when you got this guy down to the clinic, what happened?

Leal
A. We cleaned him up.

Hamilton
Q. Okay, when you say "we", who are you referring to?

Leal
A. The nurses, I mean.

Hamilton
Q. Okay, who?

Leal
A. The nurses who were with me. You know what, I don't, I can't really remember who was working with me at that time, but usually when these things happen, everybody helps, you know, whoever is taking care of this inmate, we all, we all help.

Hamilton
Q. Okay. So you guys cleaned him up and what happened?

Leal
A. We cleaned him up and we, we noticed that he had this injury on his left eyebrow, and also, you know, the scratches on the forehead and the nose, and we noticed that the nose was red and swollen with slight bleeding there, and also there was a superficial cut on his left ankle.

Hamilton
Q. Okay. Now, what you're just reading from is what? What form is this?

Leal
A. This is the 2-C sheet. This is the Progress Record that we, the nurses and the doctors, write whatever observation and whatever complaints the patients have.

Hamilton
Q. Did you write this one?

Leal
A. Yes, I did.

Hamilton
Q. It has your, copy of your signature and your employee number...

Leal
A. ...Yes...

Hamilton
Q. ...down on the bottom right corner, so. Okay, and those are the only injuries, correct, that you noted?

Leal
A. Yes.

Hamilton
Q. Okay. You didn't do a full examination on him, you or any of the other nurses, correct?

Leal
A. No, we did not.

Hamilton
Q. You didn't take his clothes off or anything like that to examine his chest or his back or his legs or any of that?

Leal
A. No, we did not.

Hamilton
Q. Okay. Do you know if the doctor did that?

Leal
A. I don't remember.

Hamilton
Q. Okay, and the doctor that we are referring to is Dr. who?

Leal
A. Dr. Peck.

Hamilton
Q. Peck, okay, the on-call doctor. Okay. Did the inmate complain of any injuries other than the ones that you just talked about?

Leal
A. No, he did not.

Hamilton
Q. Okay, and that's one of the reasons you didn't examine him, if he didn't complain of the injuries, and you didn't see any bruising or anything, for the most part, it is procedure that you don't fully unclothe him...

Leal
A. ...Yes...

Hamilton
Q. ...And examine him.

Leal
A. Uh-huh.

Hamilton
Q. Okay, unless he complained about it. Now I noticed that you have in your notes, you have 0045 hours, what it that?

Leal
A. That's 12:45 midnight, after midnight.

Hamilton
Q. Okay, but what does that indicate? Is that when you got the call or is that when you arrived up there in Module 4400?

Leal
A. That's when I arrived there at 4400.

Hamilton
Q. Okay, and that's approximate...

Leal
A. ...That's an approximate time.

Hamilton
Q. Okay, it can be off five, ten minutes...

Leal
A. ...Yes...

Hamilton
Q. ...Either way?

Leal
A. Yes.

Hamilton
Q. Okay, and then I also notice on this 2-C Progress Report, you have 0125 hours, what is that for?

Leal
A. This is the time when the patient was transferred to the hospital.

Hamilton
Q. Is this when he was actually transferred, or is this when you requested the ambulance?

Leal
A. This is the time when he was really transferred.

Hamilton
Q. Okay, so...

Leal
A. ...When he was transported, when the ambulance came to pick him up and take him to the hospital.

Hamilton
Q. Okay, so from the time that you guys arrived up there in Module 4400, to the time he left to go the LCMC for additional medical treatment, it was what, 40 minutes, between...

Leal
A. ...Yeah, approximately, yes...

Hamilton
Q. ...0045 and, okay. Okay. Did you see the watch commander come down to interview this guy, and we're talking about inmate [redacted] Did you see a video camera that night?

Leal
A. Yes.

Hamilton
Q. Did you see the watch commander, Sergeant Duncan...

Leal
A. ...(laughs) No, I don't know him, so, but I knew there were a couple of, of deputies there. I don't know who sergeant, who the watch commander is.

Hamilton
Q. The guy with the stripes. If you don't know this?

Leal
A. I don't know.

Hamilton
Q. Okay.

Leal
A. Stripes, where?

Hamilton
Q. Right here, up on the sleeve.

Leal
A. But they have stripes there, like the senior, the sergeant...

Hamilton
Q. ...Right, the sergeant has three stripes.

Leal
A. I don't know.

Hamilton
Q. Okay. Have you ever seen this inmate in the clinic before?

Leal
A. I don't know.

Hamilton
Q. How long have you been working here at Men's Central Jail?

Leal
A. About a year and a half, no, no, no, a year and one month, a year and two months, I guess. I started October of '93.

Hamilton
Q. Okay. Now let me back up real quick. The inmate, he told you that he was involved in a fight, correct?

Leal
A. Yes.

Hamilton
Q. With other inmates, or did he say?

Leal
A. Like what I have charted here, he said that four guys beat him up and they thought that, you know, the, the guys who beat him up, this is just what, this is quote unquote, that's what he said that they thought he was a member of the crips, that's why they beat him up.

Hamilton
Q. Okay, and they thought he was a member of the crips?

Leal
A. Crips. I don't know, he just, that's why I, I, put his apostrophe there because I don't really know, I don't even know what crips are, crip, that's what he said.

Hamilton
Q. Okay, he may have said, well, you know what he said, you were there, but I think he may have been referring to crips, the gang...

Leal
A. ...I don't know.

Hamilton
Q. A gang.

Leal
A. Maybe.

Hamilton
Q. Okay, that's...

Leal
A. ...Maybe.

Hamilton
Q. Okay, that's fine, that's what your notes say...

Leal
A. ...Yeah, uh-huh.

Hamilton
Q. That's fine. Okay, but you know that he was involved in a fight with deputies, correct?

Leal
A. Yes.

Hamilton
Q. Okay. Were those injuries that he had, were they consistent with punches, kicks, to your knowledge.

Leal
A. I don't know. I can't, I can't really tell what caused the injuries, whether it was a kick or punch, I don't know 'cause I wasn't there, so it might have been...

Hamilton
Q. ...I understand that, but I'm just saying from your expert opinion being a nurse and I'm sure, I'm sure you've seen injuries, I'm just saying is it consistent or isn't it, or you don't know?

Leal
A. I don't know.

Hamilton
Q. Okay, that's fine.

Leal
A. Cause it might have been, you know, like, he also mentioned that he had a seizure.

Hamilton
Q. Uh-huh.

Leal
A. You know, a lot of people who would have a seizure would probably hit the back or whatever, and would injure themselves, and I can't really tell, so I don't know.

Hamilton
Q. Okay, that's fine, that's fine. We need to go off tape for a second.

Okay, we're back on tape. What I'm gonna do, is I'm gonna have Nurse Leal read her notes that she wrote that night right after the incident, that's when she treated the inmate, and she's going to be reading from a Progress Record form, I guess you guys refer to it as a 2-C?

Leal
A. 2-C, yeah.

Hamilton
Q. Okay, so if you can, just start right here where you, October 27, 1994, 0045...

Leal
A. ...Everything?...

Hamilton
Q. ...Hours, just read the entire thing that you wrote on that night.

Leal
A. Okay, October 27, 1994, this was 1245 midnight, call for a man down at 4400. "I had a seizure and four guys stabbed me, stabbed and kicked me all over my body. They thought I'm a crip, that's why the, they beat me up. The deputies saved my life." That was, this was the subjective.

Hamilton
Q. That was the inmate's statement?

Leal
A. Statement.

Hamilton
Q. Okay.

Leal
A. This was the inmate's...

Hamilton
Q. ...That was inmate [redacted] correct?

Leal
A. Yeah. So I found inmate on the floor, hog-tied, with pool of blood on the head, approximately 150 cc's. Talking incoherently, appears confused and disoriented. Transported to the clinic per gurney. Face covered with dry blood, it was cleansed. Pupils equally reactive to light, laceration approximately one and one-half inches on left eyebrow noted, superficial scratches on forehead and nose noted. Nose note, appears red and swollen. Slight bleeding noted with superficial cut approximately one centimeter on left ankle. Vital signs: 97.1 temperature; BP 138 over 98; pulse: 118, and respiration: 20. Laceration on lower lip noted. Assessment is facial injuries, secondary to altercation. Plan: Dr. Peck notified and examined inmate with orders. Pressure dressing to left eyebrow applied. At 1:25 a.m. to LCMC per Risher Ambulance Number 161, with attendant Rodriguez, Rodriguez, Number 778, and driver Munoz, 631. Escorted by Deputy [redacted] Number [redacted], in stable condition.

Hamilton
Q. Okay.

Leal
A. And then my signature.

Hamilton
Q. Okay. When did you write that?

Leal
A. When?

Hamilton
Q. Yeah, are we talking about an hour after he left, the following day, five minutes after he left, or?

Leal
A. No, that same time.

Hamilton
Q. When...

Leal
A. ...When this happened.

Hamilton
Q. Okay, so you wrote these while you were treating him, you wrote those notes, or?

Leal
A. This was after, you know, we have done everything, after we have cleansed, we have assessed.

Hamilton
Q. Okay.

Leal
A. Everything.

Hamilton
Q. So while you were waiting for the ambulance to come your wrote...

Leal
A. ...Yes, I was writing this.

Hamilton
Q. Okay, great. A couple more questions. While you were up there in Module 4400, did the deputies ever mention to you, while you were up in 4400 or down here in the clinic, that they hit or kicked this guy?

Leal
A. No.

Hamilton
Q. They never mentioned that to you?

Leal
A. No.

Hamilton
Q. Okay, did you ever question anybody how he was injured?

Leal
A. Yeah, I think I remembered asking somebody what happened, but I don't remember who was the deputy and I was just told that he was in a fight with another deputy.

Hamilton
Q. But they didn't say that, how he got injured?

Leal
A. No.

Hamilton
Q. Okay, or you don't remember, but they may have. They didn't say, or you don't remember?

Leal
A. I don't know, I can't remember.

Hamilton
Q. Okay, that's fine. One more question. You mention in your notes that the, the inmate was hog-tied. What does that mean?

Leal
A. He was handcuffed to, to his back, oh yeah, and the legs too.

Hamilton
Q. Okay, so that means that he had restraints on his legs.

Leal
A. Yes, yes.

Hamilton
Q. Okay.

Leal
A. Uh-huh.

Hamilton
Q. Alright. Okay, is there anybody else that you can think of that I can talk to about this incident that may have, have additional information? Any deputy personnel, any civilian personnel? Nurses, doctors? Anyone?

Leal
A. Just Dr. Peck, that's all, I can't remember who was working with me, who was helping me that night, I mean, the nurses.

Hamilton
Q. Right.

Leal
A. I can't remember who are the nurses who worked with me that night, but if this case happens, everybody helps, you know.

Hamilton
Q. Okay, but it's normal procedure though, if you got the call to go up there, that you would be the responsible person...

Leal
A. ...Yes...

Hamilton
Q. ...And you would make sure that this person would be taken care of, so you were...

Leal
A. ...Yes...

Hamilton
Q. ...Within the clinic the entire time he was down there?

Leal
A. Yes.

Hamilton
Q. So, if you weren't actually doing it, you were close enough to observe people, within the room, you, within the room, while they were treating him or, correct?

Leal
A. Yes.

Hamilton
Q. While they were basically assisting you.

Leal
A. They were basically assisting me with everything that I'm doing.

Hamilton
Q. Okay. Okay, well, that's it, unless you have something else to add?

Leal
A. No.

Hamilton
Q. Okay. You did a fine job and I appreciate it. We're going to end this interview at 0042 hours. Thank you.

***** END OF INTERVIEW *****

LOS ANGELES COUNTY SHERIFF'S DEPARTMENT

WITNESS STATEMENTS
(LAST NAMES M - Z)

INTERNAL AFFAIRS BUREAU
INVESTIGATIVE REPORT

I.A.B. 008383
(Book 6 of 8)

CONFIDENTIAL

Nemeth: Okay, my name is Sergeant John Nemeth I'm on the telephone conducting an interview with Lieutenant Mark Milburn of Central Jail. Today's date is Tuesday, May 28, 1996 and the time is 1150 hours and this is regarding IAB case number 008383 and I briefly talked to Lieutenant Milburn on the phone and gave him a scenario prior to going on tape. I'll repeat the scenario in the form of a question and that is, Lieutenant Milburn, if a deputy has an inmate, who is locked on a row inside a module...and we'll use...this is an actual incident in module 4400...this inmate has demonstrated his recalcitrant, non-compliant behavior by refusing to follow the deputy's instructions to, initially lock it down in his cell, and later the deputy instructed him to go in and lock it down in the shower. Both times the inmate on at least to and possibly three occasions, does not follow the deputy's orders and instead, stays out on the Baker row of module 4400, but he is locked on Baker row. What is the or does the Central Jail back on...and this question is all framed for October 27, 1994, was there a policy in effect at Central Jail that dictated how the deputy should handle that situation?

Milburn: Yes there was and it still is.

Nemeth: Okay. And did you write that policy?

Milburn: Yes, I did.

Nemeth: Okay. And so you wrote it before that date and this policy that you wrote was in effect on October 27, 1994?

Milburn: Yes it was.

Nemeth: Okay. Would you briefly tell me under those circumstances, what would be the proper procedure?

Milburn: Under those circumstances...the policy deals with several different areas of concern that we had, but primarily in regards to this issue, anytime a deputy has a belief that there may be violence or problem with an inmate, if an inmate is locked in a cell or behind a row gate where he's not obligated to take immediate action, in other words, in a face-to-face kind of thing where he has to do something, as dictated by the inmate's actions, if he's locked behind, once again, a row gate or inside a cell, he is according to policy, required to notify his Senior or his floor Sergeant so that they can respond and assess the situation and guide him in the most appropriate action to avoid violence or at least reduce the likelihood of violence.

Nemeth: Okay, so the first step in that case is to notify a supervisor?

Milburn: Yes it is.

Nemeth: Okay. And the supervisor accesses what is appropriate action beyond that point?

Milburn: Correct.

Nemeth: Okay. What it be proper procedure...let me take a break in the tape real quick. Its..the time is 1155, approximately. Okay, we're back on tape after a brief battery check and everything. It's approximately 1200 hours. So, Lieutenant Milburn, would it be proper procedure, under the circumstances I described--a recalcitrant inmate, refusing to comply with deputy's instructions, would it be proper for that deputy to have another deputy relieve him in his booth area and then that deputy come out, open the cell gate, direct the inmate off of the secured cell...row gate, direct the inmate off of the secured row, so that he could confront him in a one-on-one situation or speak to him about his...why he wasn't complying. Would that be proper?

Milburn: Absolutely not.

Nemeth: Okay. And that's all dictated in the policy that you wrote?

Milburn: Yes, that is one of the areas that is covered.

Nemeth: Okay. And that policy was briefed at recurrent training briefings in Central Jail?

Milburn: Yes.

Nemeth: Okay. Alright, thank you. Is there anything that you want to add on this?

Milburn: No.

Nemeth: Okay. We'll end the tape. It is approximately 1202 hours.

I/M [redacted]
I.C.I.B. INTERVIEW 12-13-94

CASE NUMBER 494-00023-2300-444

[redacted]

Hamilton
Q. Okay, today's date is December 13, 1994. It's approximately 1109 in the morning. We're here at North Kern County State Prison in Delano. We're going to be talking to--. Standby. Continuing, we're gonna be talking to [redacted]. [redacted] what's your number here?

[redacted]
A. It's [redacted].

Hamilton
Q. Okay, we're gonna be discussing an incident that occurred at Men's Central Jail in Los Angeles County in module 4400 on October 27, 1994 at approximately 0030 hours. This case is being investigated under ICIB file number 494-00023-2300-444. Present in the room is Sergeant Ron Bell, and myself, Sergeant Eric Hamilton, representing ICIB. Okay, Mr. [redacted], prior to coming on tape, we did tell you why we're here, and where we're from, correct?

[redacted]
A. Yes.

Hamilton
Q. Okay. Are you familiar with the incident that occurred in module 4400 on October 27 between a deputy an inmate in that module?

[redacted]
A. Yes.

Hamilton
Q. Were you present on that date?

[redacted]
A. Yes, I was.

Hamilton

Q. Okay. Can you tell us, from your perspective, what happened on that date?

[redacted]

A. Alright. Me and [redacted] came out of our cells, and we weren't really supposed to be out of our cells, we just, the gate had been racked to let someone that was getting transferred out of our cell, and we decided to go out of it ourselves, and then the deputy that was running the control booth told us to go back inside our cells, and we decided not to go back in. So, he shut our cell door, and me and [redacted] just walked around and were talking to the other inmates in the other cells. Then, about 20 minutes went by, and then the sarg-, I mean the, the deputy in the control booth told us on the microphone to go back, no, go into the shower room, and so, I walked in there, and [redacted] decided he wasn't gonna go in the shower room. So, the deputy again told him to go into the shower room, and [redacted] said, "No, I'm not going in there," and then he shut the shower gate and I was inside the shower room, [redacted] was still outside. About 10 minutes went by, and I saw the, the deputy in the control booth pick up the telephone, and I guess, I was thinking he was gonna call someone to come in and help him, and sure enough, another deputy, which I don't know his name came in and relieved, I believe it's the deputy I'm talking about. His name was either Ruth or Cruth, or something to that nature, came out of the office, and the other deputy relie--, took over in the control booth, and threw the deputy, came out and opened the Baker gate and yelled down to [redacted] to come on up, and [redacted] pretended he was pushing a broom, acting like he was sweeping up the tier, and he walked up, and put the broom down, and slowly walked up the stairs into the sally port with Deputy Cruth or Ruth.

Bell

Q. Could it possibly be Deputy Kluth?

[redacted]

A. Yeah, Kluth, that's it. It's Kluth. Anyway, Kluth had brought him into the middle, middle of the sally port, and he told him to come walk up to the wall on the, let's see, north side of the sally port, and he got behind [redacted] and as [redacted] was going towards the wall, he put his right hand on [redacted] shoulder, and I, the reason I thought he did it was because, you know, they like to push us against the wall when they, you know. I mean, sorry, they push us up against the wall, so, then you know,

they know, that they're in control and all that, and to frisk us, or whatever they want to do, yell at us, and that's what I thought was going to happen. But, as soon as his hand touched [redacted] shoulder, [redacted] spun around and what looked like to me, I can't be sure that elbow hit Kluth and then they started squaring-off on one another. And, I saw both of them throw punches, but neither one of them landed any punches, and then they both connected into a bear hug, and then the [redacted] got the better of him, and pushed him towards me, towards the shower room bars, and they, he pushed him up into the bars, and they both hit the bars, and fell to the ground, and they both had each other in the same hold, and then I heard the front gate, the door to 4400 was clicking. The officer in the control booth was hitting the button, and I heard that go off a bunch of times, and I knew that there was going to be a bunch of police coming in, and sure enough they came in, and the first thing I saw was one of 'em grab [redacted] back of the head, and turn his face towards me, and started punching him in the face, about maybe 5 times, and then, then Thruth, Kluth, got off, got out of there. I don't know what happened to him after that. Then, it was just more and more deputies came and they were hitting him, kicking him. This went on for about a minute, and then I noticed that he got flipped over onto his back somehow from, for couple seconds or so, and I saw his face was covered in blood, and I can't keep positive on exactly how he got, you know, all those, all that blood on him, but, I you know, it happened them punching and kicking him, and then I saw him cuffed, and he was, he wasn't combative at all, he was laying flat on his stomach, not moving, and they continued pulling his legs and kicking him all over, and that went on for probably 30 seconds more until they tied his legs and got him into a hog tie, which I, I know it was a hog tie because I've been in that position before.

Bell

Q. Was he resisting being hog tied?

[redacted]

A. No, not, not, no, he couldn't have been, he was...

Bell

Q. In other words, they were trying to straighten and bend the guys legs up...

[redacted]

A. Right.

Bell
Q. ...behind him, right?

[redacted]
A. Right. So...

Bell
Q. Did he just let them do that, or did they have to lift up when his legs were straight...

[redacted]
A. I'm not, I can't be positive if he was, if he was fighting them, but from what I, what I saw, there was no way he could have, you know, the amount of beating he took and I just figured that they just were and the things that they were yelling at him, that I just figured they just wanted to, to beat him down as much as possible before they put the legs into the position.

Hamilton
Q. So, that's just an assumption on your part?

[redacted]
A. Yeah, that's, that's my assumption, yes.

Hamilton
Q. Okay, I think what my partner asked you was, was he resisting or...

[redacted]
A. Yes, or no?

Hamilton
Q. Yes.

[redacted]
A. Hmmm.

Hamilton
Q. Or, did you see that?

[redacted]
A. I don't...

Bell
Q. Maybe you couldn't even tell that.

[redacted]
A. No, I can't recall that part, I can't tell whether he was resisting or not.

Hamilton
Q. Was he, okay, were you in a position to see whether he was or not?

[redacted]
A. Yeah, I was...

Hamilton
Q. Was he moving around, was he straightening his leg out...

[redacted]
A. He was...

Hamilton
Q. ...or anything like that or was he trying to pull his legs in away from the deputies?

[redacted]
A. ...I can't, you know, I can't be sure of that. I mean, it looked to me like the deputy was holding his leg out, just holding it and yelling at him, screaming that he was gonna die, and all this, and the deputy had his leg by the knee, by the knee, what, I don't know the name of this deputy. I haven't, I mean I know a description of him, but...

Hamilton
Q. We'll get to that.

[redacted]
A. Okay. He had him by the, you know, by the thigh, and the leg so I can't see how he was trying to bend it, you know, and he was kicking him the whole time.

Hamilton
Q. Okay.

[redacted]

A. So, that's, I can't, there would be no way that [redacted] could have tried to be the way that he held his leg, it was like one hand on his thigh, and one hand on the back of his calf, you know, so he wasn't trying to fold it or anything?

Hamilton

Q. Okay. That's fine.

[redacted]

A. Okay, and then, and then they got him into the hog tie position, and then one of the deputies started screaming at me to turn around and I did, for about 5 seconds, and then I turned back around, and kept looking, and then [redacted] was moaning that he was, felt like he was dying, and they flipped him onto his side, and he was in a pool of blood, and then the nurse came in, and, and then he kept screaming that the inmates did it to him, the inmates did it to him, trying, I guess, to make so the cops wouldn't, you know, be so hard on him or something. But I, that's the only reason why I could think he was screaming that the inmates did it to him. And, then, just about a minute passed, and there was just a bunch of people in there, a bunch of officers, and the nurse, and then they, I had said I wanna go back to my cell, because I had, I had enough of what I'd seen, and they, they racked the shower room gate, and I walked myself, and that was it.

Hamilton

Q. Did anybody come and talk to you about the incident shortly thereafter?

[redacted]

A. Not until the next day, and then they just wanted to know who was in the shower, and I told 'em, "I was."

Hamilton

Q. You talked to who about that?

[redacted]

A. Two deputies that I don't know, and that weren't a part of the incident, I'm pretty sure of it.

Hamilton

Q. Did you ever talk to a sergeant?

[redacted]
A. A sergeant?

Hamilton
Q. Yeah. Outside of Internal Affairs.

[redacted]
A. No, I didn't.

Hamilton
Q. You never talked to a uniformed sergeant?

[redacted]
A. Yeah, I think he came, I'm not positive, I can't remember, yeah. I think someone came and said, you know, made it more official, but they didn't ask me any questions or anything. They just told me that someone was gonna be talking, talking to me about this.

Hamilton
Q. Okay, anything else?

[redacted]
A. Not, not about what happened from beginning to end is what I saw.

Hamilton
Q. Okay. Okay, let's go back to the beginning. You talked about, first of all, what, what time do you think the incident occurred? Was it daytime, day shift...

[redacted]
A. It was late at night.

Hamilton
Q. ...you say late at night, what time are you talking about?

[redacted]
A. It was probably about 12:30, 1 o'clock.

Hamilton
Q. Okay, and how do you know that?

[redacted]

A. Because I just knew from the time, I'd been up all night, and I just knew, I, I was the new shift came on, and I approximate, that's what approximate time when I could tell when it was.

Hamilton

Q. Okay. First thing, you talked about [redacted] who is [redacted]

[redacted]

A. His name?

Hamilton

Q. Yeah, who is he?

[redacted]

A. His name is [redacted]

Hamilton

Q. Okay, and, how do you know [redacted]

[redacted]

A. He was my cell mate for a few days before that incident.

Hamilton

Q. Okay, and that's at Men's Central Jail?

[redacted]

A. Yes.

Hamilton

Q. In module...

[redacted]

A. In module 4400.

Hamilton

Q. Okay. What cell was...

[redacted]

A. No, no, no, no, excuse me.

Hamilton
Q. Okay, what cell were you guys housed in?

[redacted]
A. I think it was, it's been a while, 4?

Hamilton
Q. What row?

[redacted]
A. Baker row.

Hamilton
Q. Okay, so module 4400 Bravo, Bravo 4.

[redacted]
A. Four.

Hamilton
Q. Okay, and you guys were cell mates, right?

[redacted]
A. Yes.

Hamilton
Q. Okay, now you said that you, you and I'll call him Mr. [redacted]..

[redacted]
A. Okay.

Hamilton
Q. ...okay? You and Mr. [redacted] the deputy in the booth opened the cell, because of...

[redacted]
A. Because an inmate was getting transferred to NCCF.

Hamilton
Q. ...okay, so all three of you stepped out of the cell?

[redacted]
A. Yes.

Hamilton
Q. Okay, and then the inmate that was being transferred he went...

[redacted]
A. Yeah.

Hamilton
Q. ...and was transferred, and the deputy that was in the booth told you and [redacted] to go back into your cell...

[redacted]
A. Right.

Hamilton
Q. ...correct? Did he do that over the P.A., or did he just yell it, or...

[redacted]
A. Over the P.A.

Hamilton
Q. Okay, he asked you guys to go back to your cell, and for whatever reason, you did not do that.

[redacted]
A. Correct.

Hamilton
Q. Correct? Then you went, he told you to go, both to go in the shower? Correct?

[redacted]
A. Correct.

Hamilton
Q. What shower are you referring to?

[redacted]
A. The Baker row shower.

Hamilton
Q. Is that upper or lower?

[redacted]

A. Lower.

Hamilton

Q. Okay, so you stepped inside the shower, and [redacted] or Mr. [redacted] did not.

[redacted]

A. Correct.

Hamilton

Q. Correct?

[redacted]

A. Correct.

Hamilton

Q. Okay, and then the deputy in the booth, did he close the, the shower gate once you stepped inside?

[redacted]

A. Yes, he did.

Hamilton

Q. And, Mr. [redacted] went back down the row and pretended like he was sweeping.

[redacted]

A. Correct.

Hamilton

Q. Okay. Then, did you see, you said that the deputy, another deputy came into the module to the relieve...

[redacted]

A. To, yeah.

Hamilton

Q. ...to relieve the booth officer.

[redacted]

A. Exactly.

Hamilton
Q. Did you see the booth officer get on the phone before that second deputy came in?

[redacted]
A. Yes. I did.

Hamilton
Q. Okay, and then how much longer did it take for the second...

[redacted]
A. For about...

Hamilton
Q. ...person to come in?

[redacted]
A. I'd say anywhere from a minute to 2 minutes.

Hamilton
Q. Okay, and what did the second deputy look like, can you describe him for me...

[redacted]
A. He had orange...

Hamilton
Q. ...or do you know him by name?

[redacted]
A. No, I don't know him by name.

Hamilton
Q. Okay.

[redacted]
A. He had orange crew cut, a flat top, I want to say. Orange hair.

Hamilton
Q. Okay.

[redacted]
A. Flat top, and he was medium build, probably about 6 foot.

Hamilton
Q. And, how much did he weigh?

[redacted]
A. Probably about, maybe 185, 190.

Hamilton
Q. Okay, was he, did he have a moustache, glasses...

[redacted]
A. No.

Hamilton
Q. ...scars, tattoos?

[redacted]
A. No, I can't recall.

Hamilton
Q. You don't recall.

[redacted]
A. Uh.

Hamilton
Q. But, you recall that he had orange hair?

[redacted]
A. Yeah, I don't remember if he had a moustache or glasses.

Hamilton
Q. Was he in the what color uniform was he in?

[redacted]
A. He was in a regular old, what else, what every police officer wears and it's the same.

Hamilton
Q. What?

[redacted]
A. What are they beige, beige or some...

Hamilton
Q. Well, I'm asking you...

[redacted]
A. (Laughs).

Hamilton
Q. ...because they also have custody assistants in there that wear similar outfits, so I, I don't know if it's a deputy sheriff, or a custody assistant...

[redacted]
A. It was a, it was a, it was a deputy sheriff.

Hamilton
Q. How do you know that?

[redacted]
A. Because he had the same uniform on as, as I see every day. I know the other guys wear jeans, and another shirt, but he...

Hamilton
Q. No, there's also people in there that wear sheriff's patches with a different color, the same color pants, different color shirts, so I just want to make sure if they were deputy sheriffs, or if they were...

[redacted]
A. Okay.

Hamilton
Q. ...custody assistants, who happen to work in the facility as well.

[redacted]
A. I hadn't noticed that he, he was a deputy sheriff by the way he was dressed, which was the light brown or beige shirt, and pants.

Hamilton
Q. And, what color were the pants?

[redacted]
A. Green.

Hamilton
Q. Are you nervous?

[redacted]
A. No.

Hamilton
Q. Okay. 'Cause I want you, want you to feel comfortable.

[redacted]
A. No, I'm not nervous.

Hamilton
Q. You know, we're just here asking basically the same questions that you were asked by the Internal...

[redacted]
A. Right.

Hamilton
Q. ... Affairs investigators, so don't be nervous.

[redacted]
A. Right.

Hamilton
Q. Alright. So, you said this, okay, this second person walked into the module. Did he walk into the booth itself, or did he stand out there in sally port area, or, or...

[redacted]
A. He walked into the booth, and, and then shut the door and then about, say, I saw him and Kluth talk for a minute, may, not a minute, maybe 30 seconds, and then Kluth came out and shut the door, and left the other deputy in the control booth.

Hamilton
Q. Okay, so the second deputy, he left in the control booth.

[redacted]
A. Right.

Hamilton
Q. Where were you standing when all this transpired, when an officer walked in, and went inside the booth. Where were you standing in the shower?

[redacted]
A. I was standing on the shower bench, which runs along the wall.

Hamilton
Q. Okay.

[redacted]
A. The back wall of the shower room, front wall, excuse me.

Hamilton
Q. Okay.

[redacted]
A. The front wall, and...

Bell
Q. Where the bars are?

[redacted]
A. Yeah.

Bell
Q. It's not a wall, it's...

[redacted]
A. Well, the bars...

Bell
Q. (Inaudible)

[redacted]
A. ...and then I walked to the very, sorry, I'm, I walked to the,

all the way to the left of the shower room, which is a floor of the sally port, is about 5 feet high from the shower room, and the bars start from the floor up to the ceiling, so, I had, I was standing on the shower room bench, and my neck was level with the floor to the sally port...

Hamilton

Q. Right.

[redacted]

A. ...and I was looking through the bars in at...

Hamilton

Q. When you refer to the bars, you talking about the bars closer to D row, Denver row, that, that, that gate to Denver row you have Bravo...

[redacted]

A. Right.

Hamilton

Q. ...gate which is closer to the booth, and to the right of that is Denver row gate, and, and to the right of that is the, is the bars connecting the shower, correct?

[redacted]

A. Right.

Hamilton

Q. The floor and...

[redacted]

A. Yeah, but I was in the Bravo shower, looking from...

Hamilton

Q. Right.

[redacted]

A. ...from there into the control booth.

Bell

Q. Okay, so you were looking for the gate that was...

[redacted]
A. (Inaudible).

Hamilton
Q. ...closer to Denver row gate, correct?

Bell
Q. You're closer to the freeway.

[redacted]
A. Yeah, I was right there, I mean, I couldn't...

Bell
Q. (Inaudible).

[redacted]
A. I couldn't, I couldn't have been any closer from where I was standing.

Hamilton
Q. Right.

[redacted]
A. There was no possible way I could have been closer.

Hamilton
Q. Okay. All right. But you are, in essence, if you would walk into the module, and you went to the right, you would first run into Bravo row gate...

[redacted]
A. Right.

Bell
Q. Correct, and lead you down the stairs, to the right of that would be Denver row gate going up, correct? That's Denver row is going up?

[redacted]
A. Okay, yes. Yes.

Bell
Q. Okay, and to the right of that gate are the bars, the shower

to the lower showers as well as the upper showers correct?

[redacted]
A. Right. Correct.

Hamilton
Q. When you were looking through the bars, you actually closer to a "D" row gate.

[redacted]
A. Right.

Hamilton
Q. Okay.

[redacted]
A. Exactly.

Hamilton
Q. We've been there...

[redacted]
A. Yeah.

Hamilton
Q. We understand, just to clarify for the tape...

[redacted]
A. Okay.

Hamilton
Q. We understand what you're talking about. You were in the lower shower, Bravo row shower...

[redacted]
A. Right.

Hamilton
Q. Okay. All right. So, from there, that's where you saw the deputies talking in the booth, correct?

[redacted]
A. Right.

Hamilton
Q. Were they in the front of their module, or in the rear, or in the middle of their, the booth?

[redacted]
A. They were in the middle, and I was looking through the glass, it kind of, it makes a couple of changes, you know, they were right in the middle, so I could see 'em.

Hamilton
Q. Okay, so you were actually looking through the bars.

[redacted]
A. Through the bars, and then through that...

Hamilton
Q. Through the glass.

[redacted]
A. ...glass window, and I saw them talking for a second, and then...

Hamilton
Q. Okay, then you said that Deputy Kluth came out?

[redacted]
A. Came out of the, yeah.

Hamilton
Q. The booth?

[redacted]
A. Yeah.

Hamilton
Q. Then, what did he do?

[redacted]
A. Shut the door, and then he opened Baker gate, and yelled down to [redacted] and said, "Come on up, you know, what are you doing?"

Hamilton
Q. Okay, did, did he actually open the gate with the keys, or did

the booth officer (inaudible).

[redacted]
A. With a key.

Hamilton
Q. Okay, and then he said what to [redacted] I'm sorry.

[redacted]
A. He said, "Come on up here, what are you doing?"

Hamilton
Q. Okay.

[redacted]
A. Alright, and then [redacted] was pushing the broom, pretending he was like sweep, you know, sweeping, or whatever.

Hamilton
Q. And you see [redacted] actually doing that?

[redacted]
A. Yeah.

Hamilton
Q. Okay, where was he, [redacted] what row?

[redacted]
A. He was on Baker...

Hamilton
Q. What cell?

[redacted]
A. He was about probably at Baker 5, sweeping the freeway.

Hamilton
Q. Okay.

[redacted]
A. And then he kept on sweeping all the way up till, till, he, he was at the bottom of the Baker stairs leading up the sally port.

Hamilton
Q. Okay, and that's actually walking closer to you.

[redacted]
A. Yeah, walked, he walked right up to me.

Hamilton
Q. Okay.

[redacted]
A. And Kluth.

Hamilton
Q. Okay.

[redacted]
A. And then, Kluth told him to put down the broom, and come on up.

Hamilton
Q. Did Deputy Kluth appear to be angry, or...

[redacted]
A. No.

Hamilton
Q. Did he call him out of his name, or anything like that?

[redacted]
A. No, he just said, "Come on up."

Hamilton
Q. He didn't appear to be upset or anything, right?

[redacted]
A. Nope.

Hamilton
Q. Okay, but was [redacted] did he appear to be upset?

[redacted]
A. Nope. [redacted] was just, you know, his usual self, and...

Hamilton
Q. Okay.

[redacted]
A. ...he just walked past, I can't remember what happened exactly. He walked into the middle of the sally port.

Hamilton
Q. Okay.

[redacted]
A. Okay.

Hamilton
Q. Are you talking about in front of the booth, or...

[redacted]
A. Yeah, right directly in front of the booth, pretty much.

Hamilton
Q. Okay.

[redacted]
A. And then, Kluth wanted to push him up against the far wall of the sally port.

Hamilton
Q. Which wall is that?

[redacted]
A. That would be Charlie wall.

Hamilton
Q. Okay, do...

[redacted]
A. In front of the Charlie gate.

Hamilton
Q. Okay, so the Abel-Charlie gate, which is on the opposite side of...

[redacted]
A. Right.

Hamilton
Q. ...where you were standing...

[redacted]
A. Right.

Hamilton
Q. He wanted to push him up against the solid wall, not the bars?

[redacted]
A. Right, yeah the solid wall.

Hamilton
Q. Okay.

[redacted]
A. Next to the shower room.

Hamilton
Q. Okay, on the other side?

[redacted]
A. On the other side.

Hamilton
Q. ...Of the module, okay.

[redacted]
A. Right, and then he put his hand on his, I guess his right shoulder, on Kluth, put his hand on [redacted] right shoulder, and then [redacted] spun with his elbow flying, but I couldn't see if it hit or not, hit him or not, and then they started squaring-off on one another.

Hamilton
Q. Okay, let me ask you something. Now, you're saying that Chili, or Mr. [redacted] that you refer to as [redacted] and the deputy walked over to this wall, which was directly in front of Abel-Charlie row, correct?

[redacted]

A. Yes.

Hamilton

Q. Okay, now, the Deputy, was he in front or behind?

[redacted]

A. Behind.

Hamilton

Q. Okay, and they walked over there, and as soon as they reached the wall, or when they got in the middle of the sally port that the pushing started?

[redacted]

A. It was about-three fourths of the way to the wall. He walked a couple steps before he, before he put his hand on [redacted]

Hamilton

Q. Okay, so he walked a few steps...

[redacted]

A. From the...

Hamilton

Q. ...in the center, or closer to the other side?

[redacted]

A. Well, he started from about the middle, he stopped in the middle for a second, and then he goes, and then Kluth told him to get against the wall, so he took a few steps...

Hamilton

Q. Okay.

[redacted]

A. ...towards the wall that I told you, and he put his hand on his shoulder.

Hamilton

Q. Okay, now when you say he put his hand on his shoulder, did he lay it down on his shoulder, did he push him, did he pull him, what, what exactly did he do?

[redacted]

A. To me, it looked like he was not pushing hard, but, you know, he didn't push hard, but he didn't, you know, just place his hand on there.

Bell

Q. Kind of directed him toward the wall?

[redacted]

A. Yeah, he just directed him. He wasn't pushing overly too much that I noticed.

Hamilton

Q. So, did he place his left hand or right hand on [redacted]...

[redacted]

A. I couldn't be... (Inaudible).

Hamilton

Q. ...Mr. [redacted] shoulder.

[redacted]

A. I'd have to say the right, I'm pretty sure.

Hamilton

Q. Okay, and then he directed him to the wall, and then, did they have more words when they were at the wall, or did he try to push him?

[redacted]

A. No, it just was right away, right when his fingers touched, I mean, right when the hand went onto his skin. He wasn't wearing a shirt, [redacted] He just spun...

Hamilton

Q. Okay.

[redacted]

A. ...the minute, I mean, the second that there was contact, I noticed that he just...([redacted] **snaps his fingers)**

Hamilton

Q. Which way did he spin?

[redacted]
A. To the right, I guess.

Hamilton
Q. Okay, he spun to the right, towards the deputy, correct?

[redacted]
A. Yes.

Hamilton
Q. Now, you said earlier that it appeared as if he threw an elbow?

[redacted]
A. Right.

Hamilton
Q. Did it look like he threw an elbow, or did it look like he was just coming around and to face the deputy.

[redacted]
A. I, I can't say for sure, 'cause it happened so fast, but, you know, I figured he threw an elbow.

Hamilton
Q. Okay. And then what happened?

[redacted]
A. And then they were like trying to hit each other, but none of, nothing happened.

Hamilton
Q. What do you mean by that?

[redacted]
A. They both were throwing punches, but they were all wild.

Hamilton
Q. Okay.

[redacted]
A. And then, they, [redacted] grabbed, grabbed him around the, the chest area with both hands in like a bear hug, and Kluth got

him in pretty much the same...

Hamilton
Q. So you're talking about they were face to face.

[redacted]
A. ...right.

Hamilton
Q. in a frontal bear hug...

[redacted]
A. Uh-huh.

Hamilton
Q. ...from behind.

[redacted]
A. Yeah.

Hamilton
Q. Correct?

[redacted]
A. They were both had each other in a, like a lock, you know...

Hamilton
Q. Okay.

[redacted]
A. ...with both hands around each other and then [redacted] or should I call him [redacted] or [redacted]?

Hamilton
Q. You can call him whatever you feel comfortable with.

[redacted]
A. Alright, alright [redacted] started running him backwards, and they slammed right into the bars where I was standing, I mean I, I was I mean I had to ba, back up, you know.

Bell
Q. Who hit the bars?

[redacted]
A. The, Kluth ran into the bars, his back. And it hit pretty hard.

Hamilton
Q. Okay, so [redacted] was pushing this guy back towards the Bravo-Denver row, the gate's actually outside the shower...

[redacted]
A. Right.

Hamilton
Q. ...where you were looking...up...

[redacted]
A. Exactly.

Hamilton
Q. ...and he slammed Kluth up into the bars?

[redacted]
A. Yeah.

Hamilton
Q. Okay, and then what happened?

[redacted]
A. And then they fell over to the right, or left side of, no, no they fell to the left, I can't remember if they fell to the left or the right.

Hamilton
Q. But, they fell on their side, versus one on top...

[redacted]
A. Yeah.

Hamilton
Q. ...of the other...

[redacted]
A. Yeah, they, yeah fell on both their shoulders...

Hamilton
Q. Okay.

[redacted]
A. ...hit the ground. Now that I think of it, they fell to the right, but then they started spinning, and they spun around to where [redacted] head and Kluth's head were to the left of me, after they, they first fell.

Bell
Q. Whereabouts...

[redacted]
A. To the ri--.

Bell
Q. (Inaudible) as far as not only in front of you, there's two sets of bars separating you, the bars up by the sally port, where's their heads when they first fell down?

[redacted]
A. Right next to the bar of the sally port.

Bell
Q. Whose head is next to the bar?

[redacted]
A. [redacted] and Kluth's head, both of them, were, were holding, were holding each other, they both fell over to the right.

Bell
Q. Did you hear them hit the bars?

[redacted]
A. No, they didn't. I mean.

Bell
Q. How far were they from the bars?

[redacted]
A. Four or five inches, their heads, and I was standing looking right then. Somehow, they got spun to where the, their heads were on the left, okay? They were fighting.

Hamilton
Q. Let me back up real quick, so we really have a clear understanding of what happened. You say that [redacted] ran Deputy Kluth into the cell, the shower bars?

[redacted]
A. Right.

Hamilton
Q. His back hit the shower bars.

[redacted]
A. Right.

Hamilton
Q. Okay, and then they fell over...

Bell
Q. Not the shower bars, the sally port bars.

Hamilton
Q. Which bars...

[redacted]
A. No, wait. Okay, I got confused. I was standing...

Bell
Q. You're at the shower bars.

Hamilton
Q. Right.

[redacted]
A. Right, and I'm standing on the bench, looking into the sally port...

Hamilton
Q. Right.

[redacted]
A. ...with the floor right at my neck, so I'm just right there.

Hamilton
Q. Right. We understand that.

[redacted]
A. Then they came right at me.

Hamilton
Q. So, they hit the, the bar gates to the shower is where you were standing?

[redacted]
A. Yeah, right where I was standing.

Hamilton
Q. (Inaudible) They ran into the back.

[redacted]
A. Yeah.

Hamilton
Q. And then they fell over to, is it your...

[redacted]
A. My right.

Hamilton
Q. Did they fall towards the Denver row gate or the Bravo row gate...

[redacted]
A. Yeah.

Hamilton
Q. ...or did they fall over towards that little cleaning room?

[redacted]
A. They fell over towards the Denver row gate.

Hamilton
Q. So, their heads were facing where? The Denver row gate or the storage...

[redacted]
A. Yeah. Pretty much right towards the Denver row gate.

Hamilton
Q. Okay, so they fell to their left.

[redacted]
A. Okay.

Hamilton
Q. Towards the gate. I'm asking...

[redacted]
A. Okay.

Hamilton
Q. ...I'm, I'm not putting words, I'm asking.

[redacted]
A. Yeah, they fell...

Hamilton
Q. (Inaudible)

[redacted]
A. ...they fell to the left, and then they were struggling, and they spun somehow to where they were, the heads were facing towards the little cleaning room, okay?

Hamilton
Q. Okay.

[redacted]
A. I know that's what happened.

Hamilton
Q. Okay.

[redacted]
A. And then the, the other deputies started coming in right at that point.

Hamilton
Q. Okay, earlier you said that you heard some clinking sounds.

[redacted]
A. Right.

Hamilton
Q. What was that?

[redacted]
A. That was, I assumed it was the, the gate to 4400, the entrance...

Hamilton
Q. From, from the main hallway...

[redacted]
A. ...from the main hallway.

Hamilton
Q. Have you heard that noise before?

[redacted]
A. Yeah.

Hamilton
Q. How long had you been in that module?

[redacted]
A. I don't know, about, probably a couple of weeks.

Hamilton
Q. Okay.

[redacted]
A. But, I know that, that's the noise, I've been in jail plenty of times to know that.

Hamilton
Q. Okay.

[redacted]
A. That was the front door.

Hamilton
Q. Okay, so then what happened?

[redacted]
A. Then, about four, I'd say four cops came running in. The first one grabbed [redacted] by the back of the head, and twisted his face, his head to where his face was facing right at me.

Hamilton
Q. Okay. Let's, let's back up a little bit. You said that, now, you, you used the number four, is, are you sure there were four deputies that came in there, or was it more, was it less?

[redacted]
A. Three or four...

Hamilton
Q. ...was it less?

[redacted]
A. ...three or four, I can't be positive.

Hamilton
Q. Okay. The first person that came in the door, that's in your view...

[redacted]
A. Uh-huh.

Hamilton
Q. ...what did he, or she look like?

[redacted]
A. He was a little Mexican guy. I, I've seen him a bunch of times.

Hamilton
Q. Okay.

[redacted]
A. So, I know exact, I don't know...

Hamilton
Q. Is he tall, is he short...

[redacted]
A. ...no, he's short and kind of...

Hamilton
Q. How tall is he?

[redacted]
A. Like five-ten.

Hamilton
Q. Okay. How much would you say he weighed?

[redacted]
A. Probably about 175.

Hamilton
Q. And...

[redacted]
A. He's kind of stocky, not really, though.

Hamilton
Q. Okay.

[redacted]
A. He's, he's just regular.

Hamilton
Q. Right. Was he, did he have a moustache, glasses...

[redacted]
A. Yeah, he had a little moustache.

Hamilton
Q. Okay. You sure?

[redacted]
A. I'm pretty sure, yeah.

Hamilton
Q. Okay. You know the color of his hair and the style?

[redacted]
A. Yeah, it was short, crew cut brown hair.

Hamilton
Q. Okay.

[redacted]
A. Kind of bald in a way, you know.

Hamilton
Q. Okay, and are you sure he's a deputy versus custody assistant or (inaudible).

[redacted]
A. Yeah, he's a deputy, I've seen him before, I know he's a deputy.

Hamilton
Q. Okay, and then the other deputies that came in and if you can describe 'em, the second person that came into your view, do you remember what that person looked like? Was it a male, or a female.

[redacted]
A. No, it was a male.

Hamilton
Q. White, black.

[redacted]
A. I think there was a Chinese guy. There was a Chinese guy in there, but I couldn't remember his face, 'cause there was so, there was so many of them that I can't remember who, exactly, who he was.

Hamilton
Q. Okay, can you describe any others?

[redacted]
A. The guy with the, that I told you in the control booth, with the orange crew, I mean flat top, he came out.

Hamilton
Q. Okay, well let's just stick to the people coming in first.

[redacted]
A. Okay.

Hamilton
Q. Okay, so you just described the one as a male Hispanic, and the other one...

[redacted]
A. Uh-huh.

Hamilton
Q. ...whether it's one more, or two more, or ten more, they were male white, and maybe a possible male Asian?

[redacted]
A. Right.

Hamilton
Q. No females?

[redacted]
A. No, I didn't notice any females.

Hamilton
Q. Okay, so you said the first deputy came to the door...

[redacted]
A. Right.

Hamilton
Q. ...and he did what?

[redacted]
A. He grabbed [redacted] by the back of the head, and I was, I mean, I was right there, I couldn't, I was, like, less than a foot away, and he turned his head towards me, his face was look--, me and [redacted] were looking each other in the face, and he started from over the top, hitting him with his right hand in the face, and screaming all these obscenities, and what not, and then hit him probably about 5 times, and then grabbed his hand. I can't tell

which one, 'cause they were, they were bundled up, grabbed [redacted] hand, and started banging it against the bar, saying he was gonna break all his, he, he said he was breaking his fingers.

Hamilton
Q. Okay, let's back up a little bit again, so we can get a clear picture of what happened. Just prior to this deputy, this first deputy that responded actually touched Mr. [redacted] were Deputy Kluth and [redacted], what configuration were they in? They still in this bear hug-type situation?

[redacted]
A. Yeah, they were like that right from the beginning.

Hamilton
Q. Okay.

[redacted]
A. When, when I told you he was, punched him in the face.

Hamilton
Q. Okay.

[redacted]
A. And then, he struggled out of that. Kluth struggled and got out of that little ah, little...

Hamilton
Q. Hold.

[redacted]
A. ...hold, and then he got up, and I didn't see him again.

Hamilton
Q. Okay, did he get out of that hold prior to the deputy getting there, or did he get out when the deputies started...

[redacted]
A. After the deputies...

Hamilton
Q. ...striking...

[redacted]

A. After the deputies started striking him.

Hamilton

Q. Okay, but my question is, is, prior to that deputy started hitting Mr. [redacted] in the face, were they, were Mr. [redacted] and the deputy still in this frontal bear hug position, or was it some other...

[redacted]

A. They were still, still in, but, but, Kluth had slipped down a little towards his stomach more, and he was getting, proceeding to get out of that...

Hamilton

Q. Okay.

[redacted]

A. ...little...

Hamilton

Q. Okay. Now, was Mr. [redacted] face, was it facing towards before the deputies grabbed, starting punching him, facing towards the shower, or was it facing towards Abel-Charlie row?

[redacted]

A. It was...

Hamilton

Q. Or some other direction.

[redacted]

A. It was face down, he was face down on the cement.

Hamilton

Q. He was face down?

[redacted]

A. Yeah.

Hamilton

Q. Okay, I don't understand, how could he be face down if he was (inaudible) to Deputy Kluth?

[redacted]
A. He was, well...

Hamilton
Q. ...in that position.

[redacted]
A. ...when, okay, he was looking towards the Abel-Charlie, but then when they were struggling, he got turned a little to where, when the deputy came in, the Mexican one, when he grabbed the back of his head, he twisted it towards me.

Hamilton
Q. Okay, so...

[redacted]
A. So, he twisted.

Hamilton
Q. ...when the deputy grabbed at what configuration, was Mr. [redacted] body in, was he still facing the Abel-Charlie row, was he, on his stomach, face down, or, what position was he...

[redacted]
A. Yeah, I mean, I guess they had him flipped onto his stomach by then.

Hamilton
Q. Okay.

[redacted]
A. I mean, I can't be sure.

Hamilton
Q. Relax.

[redacted]
A. I...

Hamilton
Q. If you don't know, that's okay, I just wanted...

[redacted]

A. I just, it happened so fast, I just remember Kluth got out and they had his head, and, and he was twisted towards me, and was punching his face.

Hamilton

Q. Okay, alright, let's just go on that. You said that the deputy grabbed his face, was the deputy, how was the deputy positioned? Was he behind Mr. [redacted], towards the bars where you were standing, or was he reaching...

[redacted]

A. He was on his knees.

Hamilton

Q. ...over Deputy Kluth?

[redacted]

A. No.

Hamilton

Q. To get to...

[redacted]

A. No, he was on his knees, and he was just trying to, to get a good punch in, I mean, he wasn't, Kluth was probably gone, I can't be sure.

Hamilton

Q. Where was the deputy, was he more towards Mr. [redacted]s head, or feet, or...

[redacted]

A. He was sitting on him on his knees right by his head.

Hamilton

Q. Okay, so you...

Bell

Q. Where, where did he hit him?

[redacted]

A. He hit him in the face.

Bell
Q. Where in the face?

[redacted]
A. Anywhere, like, you know, the cheek.

Bell
Q. And the guy's on his stomach?

[redacted]
A. Yeah.

Bell
Q. [redacted] on his stomach.

[redacted]
A. Right.

Bell
Q. He turns his head to the right?

[redacted]
A. Right, and then he started coming...

Bell
Q. It'd be hard to hit him on the left side of the face?

[redacted]
A. Right.

Bell
Q. So, he hits him on the right side of his face.

[redacted]
A. Yeah, he was just hitting him where he can, and he's not really doing, there was no power behind it, I can tell, he wasn't happy with that, so he started, pat, bang, grabbed his hand, [redacted] hand, and said he was gonna break his hand, and his fingers and...

Bell
Q. Which hand's he grab?

[redacted]
A. His right hand, I'd say, I'd have to say.

Bell
Q. [redacted] right hand.

[redacted]
A. Yeah, the one that was up, that wasn't on the floor and he started slamming it, he had it by the wrist, and he was slamming it into the bars, but that wasn't really doing anything either, I can tell.

Hamilton
Q. Now, when you say he's slamming his right hand into the bar, how does he do that when Mr. [redacted] is laying on his stomach, did he rotate this guy's body.

[redacted]
A. Yeah, he got, he got turned a little bit, and he must have, his hand was free on the top of his, I mean, one side was on the ground, the other side was up.

Hamilton
Q. Did you ever hear a deputy, any deputy, asking Mr. [redacted] to put his hands behind his back so they could handcuff him?

[redacted]
A. No, they were just interested in, in kicking his ass, that's all they kept...

Hamilton
Q. So, you didn't hear any deputies say "put your hands behind your back," or...

[redacted]
A. No.

Hamilton
Q. ..."let the Deputy go," or any of that?

[redacted]
A. Nope. None of that.

Hamilton
Q. (Inaudible)

[redacted]
A. They were just saying, "son of a bitch," you know, this and that.

Hamilton
Q. All right. So, then what happened? What were the other deputies doing while this one deputy that you described (inaudible).

[redacted]
A. They were kicking him, hit, he was getting kicked, I can't tell exactly how many times.

Hamilton
Q. Where were they positioned?

[redacted]
A. They were just all...

Hamilton
Q. (Inaudible) deputies.

[redacted]
A. They were just standing around him.

Hamilton
Q. Were they standing...

[redacted]
A. They had...

Hamilton
Q. ...behind him, in front of him...

[redacted]
A. And all around him.

Hamilton
Q. ...at his feet?

[redacted]
A. They had him pulled him out a little ways by then, and they were hitting him all over, punching him, kicking him...

Bell
Q. Where were they punching him?

[redacted]
A. All over. The head, in the back of the head...

Hamilton
Q. Okay.

[redacted]
A. One deputy stomped on his head, with his boot, into the...

Hamilton
Q. Which deputy was that?

[redacted]
A. I can't, I just can't, I just remember seeing legs, and arms flying. I can't, I just know that one Mexican guy and that's the only one I can be positive that...

Hamilton
Q. Okay.

[redacted]
A. ...did any damage at all.

Hamilton
Q. Are you just, and he was the one that did the punching to the face, initially?

[redacted]
A. Yeah.

Hamilton
Q. And the other deputies just started kicking and punching this guy all over the place?

[redacted]
A. Right.

Hamilton
Q. And, one deputy stomped this guy?

[redacted]
A. Yeah, one stomped on the back of his head?

Hamilton
Q. In the back of his head, was, was he laying...

[redacted]
A. On his...

Hamilton
Q. ...how was he laying? On his side, his back...

[redacted]
A. He, he was on his stomach, if I remember.

Hamilton
Q. And, his face was...

[redacted]
A. On the ground like...

Hamilton
Q. ...facing down...

[redacted]
A. ...towards, like a little bit to, I remember seeing his face, the side, so his head was, was down on the ground, on the cement. His face was.

Hamilton
Q. Okay, and then they were punching him, and kicking him. Did it appear as if they were really using a lot of force against him, I mean punching real hard versus you were saying earlier that one deputy was punching pretty soft.

[redacted]
A. Yeah, well, 'cause he wanted to punch harder, I could tell, but I mean, he couldn't...

Hamilton
Q. Because of the angle...

[redacted]
A. Yeah, the angle, exactly.

Hamilton
Q. Okay.

[redacted]
A. But, after that, that, they were using full force from my observation.

Hamilton
Q. Okay, so, Deputy Kluth managed to get loose and these deputies started to attack or assault Mr. [redacted] and they pulled him away from the bars, which the bars, that you were looking through, and then what happened?

[redacted]
A. And then, they let's see, where was I?

Hamilton
Q. They pulled him away from the bars.

[redacted]
A. Yeah, yeah, and then they handcuffed him.

Hamilton
Q. Who did the handcuffing?

[redacted]
A. I can't be sure.

Hamilton
Q. Was it one deputy?

[redacted]
A. One deputy, pretty much put the cuffs on, the other ones had a hold, held.

Hamilton
Q. Okay, did they, did they have the, did the deputies have to

put Mr. [redacted] hands behind his back, or did Mr. [redacted] do that on his own?

[redacted]
A. I'd say...

Hamilton
Q. Are you...

[redacted]
A. ...half and half. now,...

Hamilton
Q. What do you mean?

[redacted]
A. ...like he didn't really want to, but he didn't have a choice.

Hamilton
Q. Well, how do you know he didn't want to, was he forced by the deputies?

[redacted]
A. Well...

Hamilton
Q. (Inaudible).

[redacted]
A. At first, but he was beat, so he, his hands were pretty much, I couldn't see any force being brought after that. I mean, from [redacted] He was just pretty much loose, you know.

Hamilton
Q. Okay. Did he resist them?

[redacted]
A. At that point, no.

Hamilton
Q. Was he resisting them throughout?

[redacted]
A. No.

Hamilton
Q. Prior to handcuffing?

[redacted]
A. He couldn't do nothing, because he was getting hit from every angle.

Hamilton
Q. Okay, I'm not asking you that. I'm asking you...

[redacted]
A. Was this...

Hamilton
Q. ...from what you saw, was he resisting, trying to maybe kick the deputies away from him, was he trying to push the deputies away from him, was he verbalizing, "hey, I'm not gonna let you...

[redacted]
A. No.

Hamilton
Q. ...push me any more, I'm not gonna let you hit me," or any of that?

[redacted]
A. No, he wasn't.

Hamilton
Q. Okay.

[redacted]
A. He wasn't.

Hamilton
Q. Okay. Okay, so the deputies managed to handcuff him. One deputy?

[redacted]
A. Yeah.

Hamilton
Q. What were the other deputies doing while that one was handcuffing him?

[redacted]
A. They had him by his legs, a couple of 'em had ea--, one leg each.

Hamilton
Q. Okay, and now we, they had him by his legs, what does that mean?

[redacted]
A. One deputy had one leg on the ground, the guy, one deputy that I noticed with the red hair had his leg up in the air.

Hamilton
Q. Okay.

[redacted]
A. His right leg.

Hamilton
Q. Okay, now you say the deputy with the red hair. Is that the one that came in to relieve Deputy Kluth...

[redacted]
A. Yeah.

Hamilton
Q. ...or is it one of the deputies that may have come in to assist Deputy Kluth?

[redacted]
A. I'm pretty sure that it was the one that came in to relieve Deputy Kluth.

Hamilton
Q. Okay, and why do you say that?

[redacted]
A. Because I recognized him.

Hamilton
Q. Are you sure, 'cause there's many deputies with red hair, and flat tops.

[redacted]
A. I was probably positive it was him, I'm sure it was him.

Hamilton
Q. Are you 70 percent sure, or 80, 90, 60, 40?

[redacted]
A. I'd say 80, just to be safe.

Hamilton
Q. Okay. Okay, so the one deputy had, with the red hair, which you believe is the deputy that, **(Side B)** no I didn't stop. Correct?

[redacted]
A. Yeah.

Hamilton
Q. The one with the red hair, had his right leg?

[redacted]
A. Right.

Hamilton
Q. What did the other deputy have? He had his leg pinned, or...

[redacted]
A. Pinned on the ground.

Hamilton
Q. Okay, go ahead.

[redacted]
A. And then the guy with the red hair started kicking him in the, in the nuts, or whatever.

Hamilton
Q. Okay.

[redacted]
A. in the groin.

Hamilton
Q. Did you see that, or did you see...

[redacted]
A. Yeah, no. I know he kicked him there, I mean I saw him kicking, but I didn't remember exactly him kicking him in the balls, but.

Hamilton
Q. Okay.

Bell
Q. That was the area he was kicking him?

[redacted]
A. Huh?

Bell
Q. That was the area he was kicking him?

[redacted]
A. Yeah, he was kicking, and I, there was only one place it could have been going, I mean his legs were spread.

Bell
Q. Could have been upper thigh or...?

[redacted]
A. Yeah, it could have, it could have been, could have been, yeah.

Hamilton
Q. Let me ask you, when, when this kicking was allegedly occurring, how far away were you from the deputies at that point?

[redacted]
A. About four feet, maybe.

Hamilton
Q. Where was Mr. [redacted] head facing, was it facing Abel-

Charlie row, or was it facing you, or was...

[redacted]
A. It was...

Hamilton
Q. ...it facing Bravo...

[redacted]
A. ...it was kind of facing that little cleaning room...

Hamilton
Q. Right.

[redacted]
A. ...and more towards the Bravo shower.

Bell
Q. Where, where are his feet?

[redacted]
A. They're right like, diagonal from the cleaning room, right. His feet were pointing to the control booth door.

Hamilton
Q. Okay. And then his face was pointing towards that storage room.

[redacted]
A. Yes.

Hamilton
Q. If, if I was in your position, in the shower, it would be, his face would be facing towards the left...

[redacted]
A. Yeah.

Hamilton
Q. ...which would be where the storage room is, and the control booth and the row gate.... ([redacted] sneezes) Bless you.

[redacted]
A. Excuse me.

Hamilton
Q. Are to the right from your position.

[redacted]
A. Yeah.

Hamilton
Q. Abel and Denver row gates are to the right...

[redacted]
A. Right.

Hamilton
Q. (Inaudible). So his leg, his, his head was facing towards the storage room, which is to your left...

[redacted]
A. Right.

Hamilton
Q. ...left, and his...

[redacted]
A. Uh-huh.

Hamilton
Q. ...feet were to your right, facing towards the booth door.

[redacted]
A. Right. Exactly.

Hamilton
Q. Okay, so and the deputy to the right, you can see him...

[redacted]
A. Yep.

Hamilton
Q. ...one deputy was pinning his leg.

[redacted]
A. His, his left leg was pinned.

Hamilton
Q. Right, and the other deputy with the red hair...

[redacted]
A. Had...

Hamilton
Q. ...had his leg lifted.

[redacted]
A. ...lifted.

Hamilton
Q. Was there any other deputies around that was holding him down or, doing anything?

[redacted]
A. Yeah, there was one deputy, like, by where his head was, you know, just standing there, really just holding, and the one...

Hamilton
Q. Meaning what?

[redacted]
A. Just holding the back of his head, and the, and his arms.

Hamilton
Q. Okay.

[redacted]
A. His cuffs...

Hamilton
Q. Okay.

[redacted]
A. ...whatever, like...

Hamilton
Q. Was he standing there, was he kneeling down...

[redacted]
A. He was kneeling down. He was kneeling down.

Hamilton
Q. Okay. Was he on his body kneeling down, or was he kneeling on the cement pushing and holding his arms in the air?

[redacted]
A. He was just kneeling on the cement.

Hamilton
Q. Okay.

[redacted]
A. And then, one cop was kneeling on the cement with his left leg pinned by, me saying by, he had his thigh, his left thigh pinned, so that his leg was, you know, he was gonna bend to get the hog tie going.

Hamilton
Q. Okay.

[redacted]
A. He was starting the initial hog tie, and then, but the one deputy had his leg up, and was kicking...

Hamilton
Q. Okay.

[redacted]
A. ...for a little while.

Hamilton
Q. So, you're saying there was a total of how many deputies on Mr. [redacted] after he was handcuffed? How many were trying to control him?

[redacted]
A. Three.

Hamilton
Q. Okay, so one on the upper body, one on each leg?

[redacted]
A. Yeah.

Hamilton
Q. And, you were saying the one deputy was trying to put the hobble on?

[redacted]
A. Yeah.

Hamilton
Q. Did you see the hobble out?

[redacted]
A. No.

Hamilton
Q. Do you know what a hobble looks like?

[redacted]
A. Uh-uh. I think it's a piece of like cord or something.

Hamilton
Q. Did you see it that night?

[redacted]
A. No, I can't remember seeing it.

Hamilton
Q. Okay.

Bell
A. How many times did the deputy with the red hair, how many times did he kick him?

[redacted]
A. I'd say probably about four or five times.

Bell
Q. And this is all in the area of the groin?

[redacted]
A. Yeah.

Bell
Q. Did you see anybody else kick him in the area of the groin?

[redacted]
A. No, not for sure. He could have been kicked there, but he was kicked...

Bell
Q. By who?

[redacted]
A. ...so many times, I don't know.

Bell
Q. Was it somebody else?

[redacted]
A. Yeah, but, but what I'm, I know that deputy with the red hair had his leg, I just can still picture it in my mind, and was kicking and telling him, to, you know, he was gonna die, and shit.

Bell
Q. Okay. How many times was he kicked in total?

[redacted]
A. Oh, I can't say, I don't know, a lot.

Bell
Q. Where else was he kicked?

[redacted]
A. I, I can't be sure, you know, I mean it was all over his body.

Bell
Q. But in the body, he was...

[redacted]
A. Yeah.

Bell
Q. ...not kicked in the head?

[redacted]
A. No. He was kicked in the head, and stomped, I told you that.

Bell
Q. Yeah, right I remember that, you said he was stomped once.

[redacted]
A. Yeah, that's all I re--...

Bell
Q. Was he...

[redacted]
A. ...can be sure of.

Bell
Q. Was he kicked in the head?

[redacted]
A. I can't be sure, I, I can't...

Bell
Q. Kicked in the arms?

[redacted]
A. I can't be sure, I just know he was kicked all over. I mean, there was so many kicks...

Bell
Q. How many kicks?

[redacted]
A. I don't know. I'd say 20.

Bell
Q. Twenty, fifty, hundred?

[redacted]
A. Twenty.

Bell
Q. Twenty times total including the five by the deputy in the orange hair.

[redacted]
A. Well, I'd say 25, then 20, that sounds good.

Bell
Q. Okay. How many times was he hit?

[redacted]
A. Punched?

Bell
Q. Yes.

[redacted]
A. Probably about 50, I'd say.

Bell
Q. Was he hit with anything besides fists?

[redacted]
A. I can't be sure, I'm not positive.

Bell
Q. That you saw?

[redacted]
A. I assumed he was, but I can't be positive.

Bell
Q. You assumed he was hit with what?

[redacted]
A. What looked to me like a flat, he had a direct, cut over one of the side of his face, that was bleeding really bad, that looked like a perfect half moon, and I figured that he got hit with a flashlight.

Bell
Q. Did you see him hit with a flashlight?

[redacted]
A. No, I did not. I assumed.

Bell
Q. We don't want to know what you assume...

[redacted]
A. Right.

Bell
Q. ...we want to know what you saw...

[redacted]
A. Okay, no I did not.

Bell
Q. Did you see him hit with a flashlight?

[redacted]
A. No, I didn't.

Bell
Q. Did you see him hit with anything else?

[redacted]
A. No, I didn't.

Bell
Q. Okay, so for all you know he was kicked, and he was punched with fists, hands, any elbows?

[redacted]
A. No. Just fists and hands, I mean...

Bell
Q. Okay, so that's all you saw was fists and hands.

[redacted]
A. Yeah.

Bell
Q. Okay was his head slammed down against the floor by anybody?

[redacted]
A. Not particularly, no.

Bell
Q. What do you mean, not particularly?

[redacted]
A. Well, he fell, he hit the ground, when they both fell, but...

Bell
Q. Okay.

[redacted]
A. But there wasn't...

Bell
Q. Does anybody slam his head against the floor?

[redacted]
A. No.

Bell
Q. You know, grab him by the back of the head, and beat his head against the floor, the wall, the bars?

[redacted]
A. No, no.

Bell
Q. No?

[redacted]
A. No, I can't be.

Bell
Q. Is there any other kind of physical force that you can think of that they used?

[redacted]
A. Nope.

Bell
Q. Anybody grab him by the nose, or make his head turn around?

[redacted]
A. Grab him by the nose?

Bell
Q. Yeah.

[redacted]
A. No.

Bell
Q. Grab him by the lip?

[redacted]
A. No. I didn't see that.

Bell
Q. Grab him by the ears?

[redacted]
A. I didn't see that.

Bell
Q. No, no pressure things.

[redacted]
A. Not that I know of...

Bell
Q. No pain holds that you noticed?

[redacted]
A. No.

Bell
Q. Okay, so most of these kicks, except for the five by the deputy in the red hair to the groin, were in the area of the body?

[redacted]
A. Yeah.

Bell
Q. The upper torso, is that what we're talking about...

[redacted]
A. Yeah.

Bell
Q. ...shoulders to waist.

[redacted]
A. Yeah.

Bell
Q. Anybody kicked him in the legs?

[redacted]
A. No.

Bell
Q. Do you know whether they were landing on his, on they're landing on his upper torso, do we know where they were landing on his back? On his chest, sides?

[redacted]
A. They were landing like on his sides, pretty much on his sides, I'd say.

Hamilton
Q. Okay. Once they put the, once they handcuffed this guy, and they were kicking him and punching him, you saw this one officer kick Mr. [redacted] about five times. What happened after that?

[redacted]
A. They got the, I guess they put the, I turned around for a minute, for a second for like five seconds...

Hamilton
Q. Why?

[redacted]
A. ...but when I. Because one of the deputies yelled at me.

Hamilton
Q. Okay.

[redacted]
A. Told me to turn around.

Hamilton
Q. Okay.

[redacted]
A. I did that, for not too long.

Hamilton
Q. Okay.

[redacted]
A. And, then, when I turned back around, he was all on his stomach, tied in the hog tie position.

Hamilton
Q. Okay, then what happened? Anything else happen to the deputies?

[redacted]
A. No, he started moaning and saying he was, you know, like he was dying...

Hamilton
Q. Okay.

[redacted]
A. ...and then a sergeant came in, and more deputies, just looking and saying, "What the hell happened?" and then the nurse came in, and then [redacted] started saying that, that he, he'd been beat up by inmates.

Hamilton
Q. Okay. You've been, how long were you in the cell with him or in that module.

[redacted]
A. With him before this happened?

Hamilton
Q. Right.

[redacted]
A. For about five days, I'd say.

Hamilton

Q. Had he ever gotten into a fight with anyone in your cell or outside your cell, or while going to chow, or anything like that?

[redacted]

A. No.

Hamilton

Q. Had he ever injured himself, 'cause I know he stood up, he stayed up all night usually.

[redacted]

A. Yeah.

Hamilton

Q. He ever talk about injuring himself?

[redacted]

A. No.

Hamilton

Q. How about in the past, did he ever discuss any fights or anything that he was involved in, up in other penitentiaries?

[redacted]

A. No.

Hamilton

Q. Okay, never discussed that...

[redacted]

A. No.

Hamilton

Q. ...with him, okay. Earlier, you had a, you were interviewed by Internal Affairs Investigator Sergeant John Nemeth, correct?

[redacted]

A. Yeah, correct.

Hamilton

Q. And, do you remember him saying that you could identify the deputies that were involved in the incident?

[redacted]
A. Yes, I did.

Hamilton
Q. Okay, and he talked to you what, about a day or two after the incident?

[redacted]
A. Right.

Hamilton
Q. Things were still fresh in your mind.

[redacted]
A. Right.

Hamilton
Q. Okay. Did he show you some pictures?

[redacted]
A. Yeah, he did.

Hamilton
Q. Okay, were you able to identify the deputies that were involved?

[redacted]
A. I, only a couple of them I remember now.

Hamilton
Q. Can you remember who you identified?

[redacted]
A. Yeah, I remember, I, Kluth.

Hamilton
Q. Okay.

[redacted]
A. And the one Hispanic deputy.

Hamilton
Q. Who was the one that initially grabbed Mr. [redacted] face...

[redacted]
A. Right.

Hamilton
Q. ...and punched him.

[redacted]
A. Right.

Hamilton
Q. Okay, did you ever that Hispanic deputy kick or...

[redacted]
A. Yeah.

Hamilton
Q. ...do anything.

[redacted]
A. Yeah, he was kicking. I saw him kick him.

Hamilton
Q. Where did he kick him at?

[redacted]
A. In the side, he wasn't standing around. He was standing right, he stood up from where he started punching him, and was kicking.

Hamilton
Q. Okay, and that was during the initial...

[redacted]
A. Yeah, the very beginning...

Hamilton
Q. ...confron--

[redacted]
A. Yeah.

Hamilton
Q. ...Contact with Mr. [redacted] Okay, did you identify the person that you said that did the kicking to Mr. [redacted] groin, did you identify that person?

[redacted]
A. I, I wasn't positive with the picture that they had, but it was similar to the way the guy looked.

Hamilton
Q. Okay. 'Cause, reviewing the pictures that you signed off on that date when you talked to Sergeant Nemeth, you were, you didn't identify anybody that did the kicking.

[redacted]
A. No, I didn't.

Hamilton
Q. To Mr....

[redacted]
A. I just, I...

Hamilton
Q. [redacted]

[redacted]
A. Yeah, I wasn't. I think I wrote I wasn't sure about it. I wasn't positive.

Hamilton
Q. Okay.

[redacted]
A. But I thought I'd recognize the one.

Hamilton
Q. And that was a day or two after the incident, correct?

[redacted]
A. Uh-huh.

Hamilton
Q. Okay. Could you, let's say if we went to court, could you testify to who did the kicking? Could you identify the person now if you saw him?

[redacted]
A. If I saw him, yeah, I could.

Hamilton
Q. Why is that, why, why could you identify him now...

[redacted]
A. Because I remember what he looked like, but I, the picture didn't look like him. The picture that...

Hamilton
Q. If he was even in the picture, right?

[redacted]
A. Yeah, I don't know if that was him or not, I couldn't be sure, but I know I have the pic, in my head of what he looks like, and I can probably picture him.

Hamilton
Q. What if I said in your statement, I had it transcribed, that you identified some other deputy totally different from the one that you said that did the kicking?

[redacted]
A. What do you mean, what, what if I...

Hamilton
Q. When you were talking to the IA investigator, you described someone else that was totally different in description.

[redacted]
A. Could I have done that? I don't understand the question.

Hamilton
Q. Well, my question is, what if I said that you identified another deputy, you know, someone looked totally different from the one that you said that did the kicking today?

Bell

Q. In other words, not the red haired deputy.

[redacted]

A. Then, I would be wrong, I guess. I don't know.

Hamilton

Q. Okay, well, I'm just asking you, are you 100 percent sure that the Deputy that did the kicking was the one that relieved deputy Kluth in the module, or could it have been someone else?

[redacted]

A. I'm 100 percent sure.

Hamilton

Q. You're 100 percent sure.

[redacted]

A. Yeah, I guess.

Hamilton

Q. That...

[redacted]

A. (Large sigh). I don't know, I don't wanna...

Bell

Q. Okay, why were you in module 4400?

[redacted]

A. 'Cause I was...

Bell

Q. (Inaudible).

[redacted]

A. ...I was kicking heroin...

Bell

Q. Okay.

[redacted]

A. And I said that I had seizures, but I don't.

Bell
Q. Gee, I never heard that one before.

[redacted]
A. (Laughs).

Bell
Q. So, they had, you on what, dilantin or...

[redacted]
A. No, they had me on, I, what they had me on was, the beginning was, I conned 'em into giving me phenobarbital and clonithan.

Bell
Q. Okay.

[redacted]
A. So.

Bell
Q. It used to be phenobarbital and dilantin.

[redacted]
A. Right. I told them I couldn't take dilantin, so...

Bell
Q. Oh, okay, so normally it is that?

[redacted]
A. Yeah.

Bell
Q. Things haven't changed too much.

[redacted]
A. No.

Bell
Q. Okay, and was, what were you on, on that date?

[redacted]
A. On the day that...

Bell
Q. That this happened, did you spend the time in (inaudible).

[redacted]
A. I can't.

Bell
Q. Are you still using phenobarbital and dilantin? 'Cause of your supposed seizures.

[redacted]
A. No, they cut me off, I think, and I was on, they gave me mycelian, but I didn't take it that night, and I couldn't sleep that night, and then I ended up getting a sleeping pill, from one of the inmates.

Bell
Q. What had you taken that day?

[redacted]
A. I can't remember. I can't remember.

Bell
Q. Inmates commonly pawn their pills, etcetera, and pass them around.

[redacted]
A. Right.

Bell
Q. So, you could have been, have taken something else that day, but you don't recall what it is?

[redacted]
A. No, I didn't take nothing that day.

Bell
Q. Not that you remember?

[redacted]
A. No, I don't remember because I couldn't sleep. And I wanted to get a sinaquan, that's a sleeping pill, and I ended up getting one, but I hadn't taken it until after the incident. I got it.

That was one of the reasons I got left the shower, I mean, the cell to begin with.

Bell
Q. That's why you came out, because you wanted to go get a sinaquan.

[redacted]
A. Sinaquan, yeah. One of the reasons.

Bell
Q. That's why you didn't want to do what you were told?

[redacted]
A. Right.

Hamilton
Q. You wanted to get your...

[redacted]
A. So, I...

Bell
Q. Pill of (inaudible) so you could sleep from somebody else.

[redacted]
A. Right, and I did get that pill.

Bell
Q. Okay, why were you in jail?

[redacted]
A. For petty theft with a prior.

Bell
Q. Petty theft with a prior?

[redacted]
A. Uh-huh.

Bell
Q. And that's why you're here now, in state prison?

[redacted]
A. Yeah.

Bell
Q. And what was your sentence?

[redacted]
A. I got sixteen months.

Bell
Q. Sixteen months for the petty theft with priors. I take it you've been arrested for petty theft before, how many times?

[redacted]
A. Probably about ten.

Bell
Q. About ten times you've been arrested for petty theft?

[redacted]
A. Yep.

Bell
Q. What else have you been arrested for?

[redacted]
A. Commercial burglary, and burglary.

Bell
Q. Residential burglary?

[redacted]
A. No, they didn't count it as a residential.

Bell
Q. But, it was?

[redacted]
A. But it was in a garage, I guess you could say it was.

Bell
Q. Okay, what else you been arrested for?

[redacted]
A. Possession of cocaine. I've been arrested for assault and battery, I've been arrested for under the influence...

Bell
Q. Of what?

[redacted]
A. Heroin.

Bell
Q. Heroin? How long have you been a heroin addict?

[redacted]
A. Three years.

Bell
Q. Three years?

[redacted]
A. Around, yeah.

Bell
Q. You ever seen anybody for psychiatric problems?

[redacted]
A. When I was a little kid.

Bell
Q. What was that for?

[redacted]
A. 'Cause I was hyperactive.

Bell
Q. Heroin will take care of that.

[redacted]
A. (Laughs.)

Hamilton
Q. I have a few questions, as soon as my partner's done.

Bell
Q. Okay, go ahead.

Hamilton
Q. Okay, let me, let me ask you, did Mr. or Deputy Kluth, once he got up off the floor, did you see him do anything to the inmate?

[redacted]
A. No.

Hamilton
Q. Did, did he punch him, kick him, did he yell at him?

[redacted]
A. I don't, no I didn't see him.

Hamilton
Q. Okay.

[redacted]
A. Again.

Hamilton
Q. Okay, but you're familiar with him, correct?

[redacted]
A. Yeah, I know what he...

Hamilton
Q. He's your module officer or he was. Okay. Did any other deputies respond to this incident, and get involved in the assault? You know there was a first wave of deputies, I assume...

Bell
Q. You described the red haired deputy, that originally came in and relieved him in the module. You described the Mexican deputy who came from someplace, how many other deputies were there?

[redacted]
A. During the fight, there was probably about four to six in there, and I don't know if they were all hitting him.

Bell
Q. Including the one that was in module?

[redacted]
A. Yeah.

Bell
Q. Four to six?

[redacted]
A. Yeah, and then, then, after it was over, there was about ten of them in there.

Hamilton
Q. Okay, so we're just saying initially there was four to six deputies that assisted Deputy Kluth in restraining Mr. [redacted]

[redacted]
A. Uh-huh.

Hamilton
Q. Okay, but you basically recall...

[redacted]
A. ...Only three.

Hamilton
Q. Three, and that's including the one that you believe that relieved Deputy Kluth?

[redacted]
A. Right.

Hamilton
Q. So, you're actually talking about two additional ones.

[redacted]
A. All's I can, was sure of was Kluth and the Mexican guy and the red-haired guy. The rest, I know there was a Chinese guy, but I can't picture, I should...

Bell
Q. ...You don't know where he came in on the picture?

[redacted]
A. Yeah, he came in during the first wave of deputies that came in.

Hamilton
Q. Okay. Did you see any deputies standing in the background?

[redacted]
A. Yeah.

Hamilton
Q. During this altercation?

[redacted]
A. Yeah.

Hamilton
Q. How many deputies?

[redacted]
A. There were two, they were just in the back.

Hamilton
Q. Where?

[redacted]
A. Towards the, that Denver, I mean, no, Charlie...

Hamilton
Q. ...Abel-Charlie rows?

[redacted]
A. Showers, standing there kind of.

Bell
Q. Over by those rooms?

[redacted]
A. Yeah, against the wall and they were just kind of, (sigh) I don't know what they were doing really.

Hamilton
Q. Did you see anybody going into the booth while this

altercation was occurring?

[redacted]
A. No (yawns), I wasn't looking in there.

Hamilton
Q. The booth's never open, I mean, you're right there, you can see obviously if the door opens, you would notice it.

[redacted]
A. Yeah, but I wasn't, I don't, I can't remember anybody coming in and out, but could've.

Hamilton
Q. Okay.

[redacted]
A. But, I wasn't looking, and I was looking at [redacted] [redacted] the whole time.

Hamilton
Q. Okay. How long did this incident last?

[redacted]
A. Two minutes, I think.

Hamilton
Q. From the moment that Deputy Kluth started wrestling with this guy to the end of the fighting?

[redacted]
A. Two minutes, probably.

Hamilton
Q. Total?

[redacted]
A. Uh-huh (sighs).

Hamilton
Q. And you said that you didn't see any other deputy in the booth, correct, other than who came in to relieve.

[redacted]
A.   No.

Hamilton
Q.   Okay, how about when you were released out of the shower. Did you see who was in the booth then?

[redacted]
A.   There was all kinds of people were in there.

Hamilton
Q.   Who told you, who asked you to leave the booth, or leave the shower?

[redacted]
A.   I told them, you know, I want to get out of here and they finally let me out.

Hamilton
Q.   Who, who'd you tell?

[redacted]
A.   One of the Mexican guys, not the guy, it was another guy.

Hamilton
Q.   Where was he?

[redacted]
A.   He was just standing there looking at me in the shower and I told him, "Let me out of this, let me go back to my cell."

Hamilton
Q.   Uh-huh. Who let you out?

[redacted]
A.   Someone went in, someone in the booth opened the shower gate, I can't remember.

Hamilton
Q.   Was it the red-haired guy?

[redacted]
A.   Uh-uh. I don't know.

Hamilton
Q. Was it a young Mexican guy that you asked to let out of the booth, or older one?

[redacted]
A. A younger one.

Hamilton
Q. Was he clean-shaven, moustache?

[redacted]
A. Clean-shaven.

Hamilton
Q. Okay.

[redacted]
A. He was clean-faced.

Hamilton
Q. Okay.

[redacted]
A. I remember.

Hamilton
Q. Did you discuss this issue with any other inmates when you went back to the cell and tell your cellies basically what happened.

[redacted]
A. Yeah, kind of, yeah.

Hamilton
Q. Okay. Who'd you tell?

[redacted]
A. Well, I don't know their names, one Mexican guy, one black guy that was underneath me, that was it.

Hamilton
Q. Anybody else in there the following day? Any of the trusties or anybody like that?

[redacted]
A. Nope, I didn't tell anybody else.

Hamilton
Q. Okay. And did you, didn't you talk to Mr. [redacted] wife the following day?

[redacted]
A. Yeah.

Hamilton
Q. Okay.

[redacted]
A. The, the guy that was under me, the black dude, he was the one, that I, you know, I didn't want to talk to her, you know. He called her and said, 'Well, this guy saw everything," so, "here he is," and he made me get on the phone, pretty much. I didn't want to, but he's like, "take it, come on, take it."

Hamilton
Q. What phone was that?

[redacted]
A. The phone in the cell.

Hamilton
Q. You guys have phones in your cells?

[redacted]
A. Yeah.

Hamilton
Q. Must be nice.

[redacted]
A. (Laughs)

Hamilton
Q. Yeah, okay, so you tell her everything that happened?

[redacted]
A. Yeah, pretty much.

Hamilton
Q.   Did you tell...

[redacted]
A.   ...Pretty quick.

Hamilton
Q.   Did you tell her the truth or was it embellished a little bit, or...

[redacted]
A.   No. I just told her exactly what I saw, I mean, real fast, you know, and then she said, well, I might have someone come talk to you.

Hamilton
Q.   You talked to an investigator, right?

[redacted]
A.   Yeah.

Hamilton
Q.   Do you know his name?

[redacted]
A.   Yeah, it was David Lynn.

Hamilton
Q.   David Lynn?

[redacted]
A.   Yeah.

Hamilton
Q.   And you went over the story with him?

[redacted]
A.   Yeah.

Hamilton
Q.   Okay, did he ask detailed questions like we're asking?

[redacted]

A. Not as in detail, I just told him what happened slowly and he wrote it down and then I signed it.

Hamilton

Q. Did you notice any other civilians out there on the row or out on the sally port, or any other possible witnesses to this?

[redacted]

A. There's no possible witnesses, except for me.

Hamilton

Q. You didn't see any trusties?

[redacted]

A. No, there could have been, but they couldn't have seen much because if they were in the, where they were supposed to be, I know there was no trusties on our row and none upstairs. They live next on the Char-, yeah, Charlie-Abel row.

Hamilton

Q. You didn't see anybody up there on Denver row?

[redacted]

A. No.

Hamilton

Q. Are you sure?

[redacted]

A. Yeah. I'm positive.

Bell

Q. (inaudible)

[redacted]

A. No, no, (inaudible).

Hamilton

Q. Like if you, if you go against that wall, you can look up...

[redacted]

A. ...Yeah, you can look up, no one was right there, no, I was

the only one.

Hamilton
Q. From your cell, cell four, could you see what was going on?

[redacted]
A. Hell....

Hamilton
Q. If you were in cell four could you see the altercation, the deputies where they landed?

[redacted]
A. No.

Hamilton
Q. How about if you were up on Denver row?

[redacted]
A. Yeah, I've been up there, and no. There's no possible way if you're in a cell you can see into the sally port. I don't see how...

Hamilton
Q. ...I'm talking about right in front of Bravo gate now, could you see?

[redacted]
A. Yeah, I think you can peek, but not really see you know...

Hamilton
Q. Any other deputies you can that you can think about that you saw there that maybe we could talk to, 'cause you know them, 'cause you've been there for a couple of days and you know the deputies and, by name, or anything?

[redacted]
A. That's what I told you is all, all I know, really.

Hamilton
Q. Okay. No other witnesses?

[redacted]
A. No, not that I know of.

Hamilton
Q. Okay. And you said the sergeant and other people responded later?

[redacted]
A. Yeah.

Hamilton
Q. Did you talk to, you didn't talk to the sergeant?

[redacted]
A. No, no one talked to me, they just rushed me into my cell and then the next day is when the first people came.

Hamilton
Q. Okay, and you talked to the sergeant the following day, didn't you? Sergeant in uniform?

[redacted]
A. Yeah, I think it was a sort of heavy set, short, sergeant. He didn't say nothing, he just kind of just said what one we're going to kind of investigate on this or something, so be ready or something.

Hamilton
Q. But, you talked to him, correct?

[redacted]
A. Yeah, I think so for a second.

Hamilton
Q. You told him what happened, didn't you?

[redacted]
A. No, I don't know.

Hamilton
Q. Because he has your statement and you saying...

[redacted]
A. ...Briefly, maybe, very briefly.

Hamilton
Q. Okay. Okay, that's all I have. Ron?

Bell
Q. Okay, you, you mentioned that the deputy with red hair kicked Mr. [redacted] is it...

[redacted]
A. Yeah.

Bell
Q. ...in the groin, approximately five times, or in that area, did you see any other strikes to the groin?

[redacted]
A. No.

Bell
Q. Fists, hands, anybody grab him there? You saw nothing?

[redacted]
A. Nothing.

Bell
Q. Did you hear any comment about kicking him in the balls, hitting him in the balls?

[redacted]
A. Nope.

Bell
Q. Any comments about hitting him anywhere else?

[redacted]
A. Uh-huh, no.

Bell
Q. Just (inaudible) etcetera.

[redacted]
A. Yeah...

Bell
Q. ...And doing the normal things guys do when they're in a fight.

[redacted]
A. Right.

Bell
Q. Did you hear anybody say he's had enough?

[redacted]
A. I can't be sure.

Bell
Q. Did you see or hear anybody, any deputy, or anybody I guess, pull any of the deputies off of him?

[redacted]
A. No, I didn't see that.

Bell
Q. Didn't hear any of them say, you know, "Hey, partners, I think he's done." Nothing like that?

[redacted]
A. I, I can't be positive, I don't know. I think, but I can't say for sure because it's not clearly in my mind. I thought I, you know, it seems like they were doing that, but if I were to say, "Take it easy." I thought I, I can't be sure though. I don't want to say yes, because then I might be, you know...

Bell
Q. ...Okay so somebody may have.

[redacted]
A. Yeah.

Bell
Q. That's a possibility.

[redacted]
A. Yeah.

Bell
Q. But you don't remember.

[redacted]
A. (Laughs) I don't know.

Bell
Q. You don't clearly remember.

[redacted]
A. No, I wouldn't testify to it or whatever.

Hamilton
Q. One last question. Did you see Mr. [redacted] at anytime get Mr. or Deputy Kluth in a headlock versus a bear hug.

[redacted]
A. No.

Hamilton
Q. Have you talked to Mr. [redacted] You said that you saw him the other day or a couple weeks ago or whatever back at Men's Central Jail, did you talk to him about the incident? Did you guys had a chance to talk briefly or whatever?

[redacted]
A. No, we were walking to chow and he was, I was walking away and I was finished and he was walking to chow so we, I just said, "[redacted] and he looked at me and that was it, pretty much.

Bell
Q. You passed each other in the hallway.

[redacted]
A. Right.

Hamilton
Q. Did you consider Mr. [redacted] a nice passive guy or was he, did he sometimes seem...

[redacted]
A. He seemed like he wasn't all there. He was...

Hamilton
Q. ...What does that mean?

[redacted]
A. He was just kind of, he had some mental problems, I could tell. I mean...

Hamilton
Q. ...Like a light was on but nobody's home.

[redacted]
A. Yeah.

Hamilton
Q. Kinda thing.

[redacted]
A. Right, he was, he wouldn't sleep and he, you know, pacing around. He wasn't all there, you're right.

Hamilton
Q. He ever appear to be aggressive with anybody in the cell or...

[redacted]
A. ...No.

Hamilton
Q. He ever tell you guys about stories of...

[redacted]
A. Nope. He was pretty small and you know, I didn't think, I was surprised when, when he did what he did, you know.

Hamilton
Q. How about, did he, did he ever tell you why he was in jail?

[redacted]
A. Nope.

Hamilton
Q. He would never, he never talked to you about fighting people out there on the streets or maybe in...

[redacted]
A. ...No...

Hamilton
Q. ...when he in the penitentiary.

[redacted]
A. No.

Hamilton
Q. Okay, do you have anything else for us? Can you think of anything else maybe we forgot to ask and that you want to add or anything?

[redacted]
A. No, that's it.

Hamilton
Q. Okay, well we appreciate you patience. We're gonna end this interview at 1227.

END OF INTERVIEW

I/M [redacted]

I.A.B. INTERVIEW 10-31-94

WITNESS INTERVIEW

CASE NUMBER IAB 008383

[redacted], Booking #[redacted]

Nemeth:
Q. Okay. Today's date is Monday, October 31, 1994, and the time is 1246 hours. Sergeant John Nemeth, Internal Affairs, accompanied by Sergeant Tim Cornell. We're here at Central Jail interviewing Inmate [redacted] [redacted]. It's basically a re-interview, [redacted]'s booking number is [redacted], all of his information is indicated on the prior tape. [redacted] we're here re-interviewing you to follow-up on what happened since we last talked to you early Saturday morning. Prior to going on tape, you started explaining to us what happened to you after we interviewed you about 2:30 or Saturday morning, can you tell us what happened?

[redacted]
A. Well, I just got, the Deputy Ruth, I can tell . . .

Nemeth:
Q. Well, who's Ruth, now?

[redacted]
A. He's the guy that, that was in the initial confrontation with [redacted] and I thought his name was, I think I called him Roy or something, but I'm not, I, I, that's what I thought I saw but when I saw him again, that night, it's . . .

Nemeth:
Q. Okay, you had previously told us you thought the name was something like Orlin, O-R-L-I-N, (right) or something like that.

[redacted]
A. And it's not, it was, it was Deputy Ruth.

Nemeth:
Q. Ruth?

[redacted]
A. Ruth, R-U-T-H.

Cornell:
Q. Now describe him for us.

[redacted]
A. He's White, pale, not pale well clear, White complexion and he has short brown hair, no mustache.

Cornell:
Q. How tall his he?

[redacted]
A. He's about 5'11".

Nemeth:
Q. Okay, was he the Module Officer that was on duty the night we interviewed you?

[redacted]
A. He was on duty the night you interviewed me.

Nemeth:
Q. Okay, and you said that *that* was the same person that had been involved in the (yes) incident with (two days) [redacted] is that right?

[redacted]
A. Right.

Nemeth:
Q. Okay and so is it, what happen is after we had the interview, you went back and took a closer look at him and his name tag, (yeah) is that what happened?

[redacted]
A. Yeah, and then I realized his name, I had made a mistake. (okay)

Nemeth:
Q. Now tell us what happen when you got back, you said you felt like you were being treated unfairly.

[redacted]
A. Yeah, well he made me sit down and he had his little buddy in, in, in the control booth and, and he said "for something I did the night, something, I was in the showers, okay, that's why I'm sitting on the floor," I go, "Why am I sitting on the floor?" He said, "Because of what happened when you were in the showers," and I said, you know, "What?" He goes, "This is no summer camp," slammed the door.

Nemeth:
Q. Where were you sh–, were you ever in the showers between the time you told us you were in the shower and witnessed this incident and yesterday, or when we interviewed you?

[redacted]
A. Have I been back in the showers?

Nemeth:
Q. Yeah, had you been back between the day you told us this fight with [redacted] went down and the day we interviewed you on Saturday, two days ago, had you been back in that, in that mean time? Had you been put in the shower again for something?

[redacted]
A. No.

Nemeth:
Q. So do you, you think he was referring to the night you were in the showers?

[redacted]
A. Yeah, yeah, he was, I know he was and then, then, and then I heard him, Ruth, mutter something like, "Just keep him there for an hour," or something, so I heard the, one of the deputies go, "Should we let him go back?" "No, no, let him sit there for an hour."

Cornell:
Q. And where were you sitting?

[redacted]
A. On the floor, just right there next to the control booth, sitting there and all kinds . . .

Cornell:
Q. Down, down on the row or up above, upstairs?

[redacted]
A. Up above right in front and all kinds of people were coming in and going right to their cells, you know.

Nemeth:
Q. So you think that was some kind of punishment of what went on?

[redacted]
A. I don't know, maybe yeah, yeah, and then now I'm getting screwed again, I'm supposed to go to Wayside, I was just ready to go to Wayside, so happy 'cause I'm sick with, I haven't taken medicine in like a week so that they'll pull my chart out and they'll ship me out of here. So they finally call me and now I can't go.

Nemeth:
Q. Well you'll go, we'll make sure you get going.

[redacted]
A. You, you will?

Cornell:
Q. We, we pulled you back here.

Nemeth:
Q. We had to pull you out.

Cornell:
Q. You were getting, you were getting ready to go on to catch the chain and go to Wayside.

[redacted]
A. Yeah.

Cornell:
Q. But we didn't want you there (I know) 'cause we had to talk to you today.

[redacted]
A. I know that.

Cornell:
Q. We will, we will put you on the chain when we leave here and send you to Wayside.

[redacted]
A. Thank you very much.

Cornell:
Q. Okay, we'll see that you get there.

Nemeth:
Q. We don't want you to, we're not doing it as a favor, (I know) it's just because that's where you were going.

Cornell:
Q. And you were gonna go there anyway, we just (inaudible) and gonna interfere with it, okay.

[redacted]
A. So right now you're gonna put me down there?

Cornell:
Q. Well and you, and just know that you may not go 'cause we don't know when the next chain goes but we will tell, (oh, no) listen to me, we will tell them that it's okay with us for you to go out there.

Nemeth:
Q. If the bus hasn't left, we'll try and get you back onto it, okay.

[redacted]
A. It probably takes forever for the bus to leave.

Cornell:
Q. We'll see what we can do, okay?

[redacted]
A. Alright.

Cornell:
Q. I mean, if you're scheduled to go there then you should go there, we're not (yeah, thank you) gonna interfere with that, okay, but we're not . . .

Nemeth:
Q. What kind of medication do you take?

[redacted]
A. Nothin', I just.

Nemeth:
Q. What are you talking about, medication and that?

[redacted]
A. They, when I came in I was sick from doing drugs.

Nemeth:
Q. From your addiction to heroin?

[redacted]
A. Right, so they gave you like a, a narco, narcotic.

Nemeth:
Q. Right, to calm you down a little bit, help you kick your habit?

[redacted]
A. Right and they only give you that for four days and then I said, I bullshitted and said I had seizures so they would give me Phenobarbital and this other shit and they gave me that for a couple of days and then they said, "Sorry, no more," and then I just stopped going all together and I haven't gone in a week, I don't care. I'm in the pool.

Nemeth:
Q. So then you kicked early?

[redacted]
A. Yeah, I kicked early, I'm in the pill pool but I'm not, you know, I shouldn't be there.

Cornell:
Q. Did you get transferred to 48?

[redacted]
A. Yeah.

Cornell:
Q. Why?

[redacted]
A. I have no idea, they just pulled me up at five in the morning, just . . .

Nemeth:
Q. Was it the same day or another day? Was it the same morning of the interview?

[redacted]
A. The next day, the next day, the next day five in the morning, they pulled me up and just "go 4800."

Cornell:
Q. Do they give pill call on 4800?

[redacted]
A. Yeah, and my chart wasn't there, nothing was there.

Nemeth:
Q. Okay, did anybody do any–, other than what you've already told us, have you had any other problems or any other acts that you would think might be in retaliation for talking to us?

[redacted]
A. No.

Nemeth:
Q. No? (okay) Is there anything else that you thought of that you want to relay to us now?

[redacted]
A. Just that I made a mistake on the name, (okay) that was the major.

Cornell:
Q. But are you now positive that the name is Ruth?

[redacted]
A. I'm positive, (okay) because . . .

Cornell:
Q. And he was involved in the initial confrontation?

[redacted]
A. He was the one who touched him and, made him stretch.

Nemeth:
Q. Okay, let me ask you this, you were in the shower that day, right?

[redacted]
A. Right.

Nemeth:
Q. Where exactly, I'm not clear on where it happened, did it happen on the part of the floor that's off of B Row or did it happen on the B Row or in front of the shower?

[redacted]
A. See, it happen where I said it did, okay? (what you) This guy over there told me he, and I said, "You couldn't possibly," he said he saw the deputy touch, he couldn't have, there's no possible way, he was, he was up on top and they were over on to the right, there's no way he could have seen nothin', he's like, "Oh, shoot, oh, oh." I go, "Why you say that?" He said, "Well, I'll tell them, maybe, I don't know."

Nemeth:
Q. Okay. So you were . . .

Cornell:
Q. Okay, do you know what's (inaudible)

[redacted]
A. There's no possible way he could have seen it from the cell because he came all the way up top, all the way up the stairs, shut the main gate.

Nemeth:
Q. Chill out for a second, [redacted] this tape-recorder is very sensitive.

Cornell:
Q. What I want you to do, what I want you to do is I want you to draw where you . . .

Nemeth:
Q. Why, why don't you draw and then have him indicate on that.

Cornell:
Q. No, let him do it, let him do it. Why don't you show me where the, where the cell is first of all, show me how . . .

[redacted]
A. Okay. Alright, let's say these are the cells, are all like this. (okay)

Cornell:
Q. That, that's Baker Row, right?

[redacted]
A. Yeah.

Cornell:
Q. Okay so la–, label that as, just put a B there so we know that's Baker Row, okay?

[redacted]
A. Baker Row. (alright) Here's all the cells, (okay) and here's the freeway.

Cornell:
Q. Freeway, okay. Put freeway on it so we know that's what that is.

[redacted]
A. Okay.

Nemeth:
Q. Well put a dash line like the (inaudible) freeway.

(end Tape 1, Side B–start Tape 2, Side A)

Nemeth:
Q. Okay. Today's date is October 31, Monday, 1994, time is 1254 hrs. This is a continuing of [redacted] re-interview, Central Jail.

Cornell:
Q. Okay. So you've drawn Baker Row, you've drawn the freeway.

[redacted]
A. Okay, then here's the stairs that go up. Okay.

Cornell:
Q. To the booth?

[redacted]
A. Yeah, and then.

Cornell:
Q. Draw the booth in there for me (alright) so we know where it is.

[redacted]
A. Okay, then the booth is up here, (okay) goes all the way across. (okay) Booth and –well can I sit down– then I don't know, I mean you can't there's a gate, this is the gate and he, he walked, he walked up (this the beginning of it) these stairs through the gate . . .

Cornell:
Q. Okay, label the gate there for me so I know which is which here.

[redacted]
A. And then he walked over here and the, then D gate's right here, or I don't know what gate it is.

Cornell:
Q. That's the gate to go into the (inaudible)

[redacted]
A. To the other side.

Cornell:
Q. Okay, just put, we think it's D, just go ahead and put a D there for D, that's what we think it is.

[redacted]
A. Alright. And that's right where [redacted] walked up and walked across, passed in front of the booth, and right (Nemeth: Okay, you didn't . . .) next to D gate is where Deputy Orlin touched him right on the back and then he spun around and theu they started, you know, (Nemeth: Hang on.) dadada and then they fell all the way up back here.

Nemeth:
Q. Hang on a second, hang on a second, before we get to that, B and D are on the same side, okay, (alright) so this, this is AC side over here.

[redacted]
A. Yeah, okay, that's A.

Nemeth:
Q. Okay, so do you think it was the AC side, it was the opposite of where you were.

[redacted]
A. Yeah, yeah, 'cause I was . . .

Nemeth:
Q. You were in the B shower right here, (right here) (Cornell: Okay, draw the shower in there for me, draw the shower.) and was, was [redacted] in B-4 cell? [redacted].

[redacted]
A. Yeah, [redacted] was in there.

Nemeth:
Q. So that's why you're saying there's no way he could see over to D?

[redacted]
A. No possible way, (okay) no possible way. (alright) He could have not have seen the first initial contact.

Nemeth:
Q. The initial contact was actually not right in front of where you were and this B shower was in front of the opposite side.

[redacted]
A. No, no, that was right where it started.

Nemeth:
Q. And then you said the scuffle, you said, wound up coming right for where you were.

[redacted]
A. Right, yeah, and then it fell right in front of my face, six inches away, (okay) I was standing like this.

Cornell:
Q. Put the showers in there. Now, are you standing on the floor of the shower?

[redacted]
A. No, I'm standing on the bench.

Cornell:
Q. And where is it?

[redacted]
A. It's, it, it runs along the wall.

Cornell:
Q. What color is it?

[redacted]
A. It's metal, bench. (okay)

Cornell:
Q. So it runs right along in that area there?

[redacted]
A. Yeah, it runs there.

Cornell:
Q. You just kind of put that in there and put the bench in there so we know that's what that is.

[redacted]
A. And I was standing (uh-huh) on this bench.

Cornell:
Q. And you're looking?

[redacted]
A. And I'm just, and the bars, I'm looking, the, the, the floor is right here to my neck, I'm standing like this (okay, you're) and that's how close and how good of a view I have.

Cornell:
Q. And you're indicating abont chin level, (yeah) that's where you are.

[redacted]
A. That was the floor. (okay)

Cornell:
Q. So put, put an X right there where the, where the initial con–, contact.

[redacted]
A. Happen right . . . well alright.

Cornell:
Q. Okay and then it, then it came over (yeah) toward your direction?

[redacted]
A. Toward where I was standing on the bench

Cornell:
Q. And ultimately, where did you see the deputies using force on [redacted]

[redacted]
A. Right in front of the B gate.

Cornell:
Q. Okay, put a circle there.

[redacted]
A. I guess, right.

Cornell:
Q. About right there?

[redacted]
A. Yeah. (okay)

Cornell:
Q. And just put an "F" there for force, that's where you saw the force.

[redacted]
A. Okay.

Cornell:
Q. Okay, is that all, is that it?

[redacted]
A. Yeah, that's right where it happen. (okay)

Cornell:
Q. Alright, there's a couple of other things that I'm not still not clear about.

[redacted]
A. Okay. (okay)

Cornell:
Q. One is: *Did you see any deputy kick* [redacted]*n the groin?*

[redacted]
A. Well, I said that before, I can't say for sure (okay) that, I mean I don't wanna lie because I, I didn't watch him do it.

Cornell:
Q. I don't want you to do, yet I'm trying to clarify in my mind what you told me the other night, 'cause it was late.

[redacted]
A. I, I saw so many kicks, okay.

Cornell:
Q. Okay, let me ask you this, you told us before that [redacted] was kicked about twenty times.

[redacted]
A. Twenty times, yeah. (okay)

Cornell:
Q. And you said that the kicks were to his chest and to his stomach and to his legs, okay, now if he had all these kicks done to him, is he laying on his face when all this is happening?

[redacted]
A. He's on his, okay, there was, there was a lot of kicks and punches and everything before they, they had him in that one position but ultimately he was on his chest and face with one leg up, I, I remember seeing one leg in the deputy's hands and, and I remember kicks at that point.

Nemeth:
Q. Which deputy was holding that leg?

[redacted]
A. The one with the orange hair, short spiked flat top.

Nemeth:
Q. And was he kicking or was he just holding?

[redacted]
A. I couldn't tell, I mean, there was so many kicks. (okay)

Cornell:
Q. Okay, so if we go over and we look at [redacted] body, we make him get naked, (right) should there be bruising?

[redacted]
A. Oh, yeah, definitely

Cornell:
Q. Where?

[redacted]
A. All over, man, all over. I, I'd say, I, I would say, "Yeah, in the groin" because the way he had his leg, (well there's) there's no possible way that he could, they could have kicked him everywhere and not kicked him in the groin because the way that the deputy had his one leg, he was like open, you know, to be kicked there, it was . . .

Cornell:
Q. Should there be bruising on the chest?

[redacted]
A. Yeah.

Cornell:
Q. Stomach?

[redacted]
A. Yeah.

Cornell:
Q. Back?

[redacted]
A. Everywhere, everywhere. It was just mainly, I mean, I just saw everything and it was just, it, I saw so many blows I can't be sure of what, every blow but I know that he got hit all over, that's all I know, he got hurt.

Cornell:
Q. Did you ever see anybody use any of the pepper spray, the OC spray?

[redacted]
A. No, no.

Cornell:
Q. They never used that on him?

[redacted]
A. I didn't see it, I didn't see it.

Cornell:
Q. Did you smell it in the air?

[redacted]
A. No.

Cornell:
Q. Have you smelled it before?

[redacted]
A. No. (okay)

Cornell:
Q. So you don't know?

[redacted]
A. No, but I heard if you smell it . . .

Nemeth:
Q. Alright, just for clarification sake, did you ever hear anybody counting one, two, three, or say anything like that? No?

[redacted]
A. No.

Nemeth:
Q. Shaking your head "no," okay. Did you . . . (Cornell: Did you see . . .) Go ahead.

Cornell:
Q. I'm sorry. Did you see anybody take [redacted] head and slam it on the floor?

[redacted]
A. No.

Nemeth:
Q. Or, did you see anybody grab his hair or do anything like that?

[redacted]
A. Yes, yeah, but I didn't see anybody pounding his face on the floor.

Nemeth:
Q. What did they do when they grabbed his hair? Just hold on to it, or?

[redacted]
A. They twisted it to the side.

Nemeth:
Q. Turned his head to the side (yeah) by holding on to his hair?

[redacted]
A. Yeah, turned the back of his head. (okay)

Cornell:
Q. You told us before that when, that you saw the initial contact with the deputy push and shove [redacted]

[redacted]
A. Right, right.

Cornell:
Q. How did [redacted] was he facing the deputy when he initially pushed him or was he facing away?

[redacted]
A. No. Back, I remember (okay) exactly what happened, his back was to the deputy and he wasn't, the deputy wasn't, you know, I, I gotta say that it wasn't like he was ramming him up against the wall like they usually do, he just was gonna just touch him, you know, just.

Cornell:
Q. And it was, and it was the cement wall and not the bars?

[redacted]
A. Yeah, it was the cement wall on, on like the DH right there and then the wall (okay) he was like that and the deputy didn't, didn't put any kind, he just put his hand on him and that's, that's all I saw, I wanna be fair. (Nemeth: Right.)

Nemeth:
Q. You're being fair and you wanna tell the truth, that's what we want.

[redacted]
A. Right. And he just put his hand and just to like I guess just to push him up it, you know, (Cornell: with his hand) just to force him, his right hand, just to make him so he'll go (on up) up against the, the back wall (okay) but right, but that didn't happen because right when the hand touched he spun.

Cornell:
Q. Which shoulder did he put the hand on?

[redacted]
A. Right. (okay) And then he spun to the right with that. (okay)

Cornell:
Q. When he spun did he hit the deputy, do you know?

[redacted]
A. No, he didn't hit, there wasn't any . . .

Cornell:
Q. Was it a blow in the face?

[redacted]
A. No, I don't think so.

Cornell:
Q. Would you have seen that?

[redacted]
A. Yeah, I would have seen it, I didn't see any blows.

Cornell:
Q. What's the lighting conditions like over there?

[redacted]
A. It was bright, it was bright.

Cornell:
Q. Like it is in this office?

[redacted]
A. Maybe not *that* bright but it was bright enough to where I could see.

Nemeth:
Q. It was nighttime, do they leave those (yeah) lights? We were just today, okay, earlier today and the lights were on so obviously (yeah) there's no outside light coming in so they leave those lights on all the time (yeah) or are they turned off at night?

[redacted]
A. They, they were on.

Nemeth:
Q. Those are on.

[redacted]
A. But I'm sure, I think they turned 'em off like after a while but they were on that night.

Nemeth:
Q. You remember you had no problem seeing?

[redacted]
A. Yeah, I know, yeah, I saw everything.

Cornell:
Q. Somebody told us that the deputy, that [redacted] hit the deputy in the face with his elbow when he turned around, hit him right on the jaw.

[redacted]
A. I mean, *who* could have told you that, no one else saw it but me, I'm the only one who saw it that I, that's all I know. I, maybe someone was down (D Row might) D Row, *maybe*.

Nemeth:
Q. C Row, A Row, or (inaudible).

[redacted]
A. Yeah, maybe they could have seen something, but no one else saw it and I was the only one, I'm positive.

Cornell:
Q. Okay, let me ask you this . . . what about module trustees?

[redacted]
A. Yeah, I don't know where they were, I don't.

Cornell:
Q. Do we have trustees in the module?

[redacted]
A. Yeah. I didn't know where they were, they must have been in that little room, that day room that they have TV in.

Nemeth:
Q. That little closet area where they hand out the bedrolls, that one?

[redacted]
A. No, no.

Cornell:
Q. It's a day room next to the shower.

[redacted]
A. Yeah, on the other side, on the other side, not on the side I was on.

Cornell:
Q. Did you ever see them at all during this incident?

[redacted]
A. No, I know I saw 'em before the incident, before.

Cornell:
Q. And where were they, when's the last time you saw the trustees?

[redacted]
A. They were just walking all around, working.

Cornell:
Q. On the freeway?

[redacted]
A. All over, yeah.

Cornell:
Q. Is it possible they saw it and you don't know they saw it?

[redacted]
A. They might have saw the initial contact but after the, the fight moved over, they could have not possibly have seen it.

Cornell:
Q. Do you know what their names are?

[redacted]
A. No. Oh, yeah, I know one guy, [redacted] but I just know him as [redacted]

Cornell:
Q. His name is, you call him [redacted]

[redacted]
A. Yeah.

Cornell:
Q. Is he a White guy?

[redacted]
A. He's White, White.

Cornell:
Q. Does he have red hair?

[redacted]
A. Yeah. Big, big, big.

Cornell:
Q. He's a big guy, how tall?

[redacted]
A. Oh, 6'2".

Cornell:
Q. How much does he weigh, do you think?

[redacted]
A. Oh, 195.

Cornell:
Q. Has he been there for quite a while as a trustee?

[redacted]
A. I don't know, I've seen him a few times, (okay) I was talking to him, he said I was going to the hole and all this shit.

Cornell:
Q. He told you that you were going to the hole?

[redacted]
A. Yeah, he was trying to, 'cause I, I didn't, see the whole thing started, I didn't go back into my cell when the doors closed.

Nemeth:
Q. Right, 'cause you were getting that pill, whatever you call it, sleeping pill.

[redacted]
A. Yeah. 'Cause I . . .

Nemeth:
Q. So he was telling you you were going to the hole before the fight?

[redacted]
A. Yeah, and that's why I was standing in the shower and I was kind of getting bummed out and I was, "Bullshit."

Cornell:
Q. Who's the other trustee?

[redacted]
A. This one Mexican guy, I don't know his name.

Cornell:
Q. What's he look like?

[redacted]
A. He's big and kind of fat, short, short wetback-looking hair.

Cornell:
Q. Black hair?

[redacted]
A. Yeah. (okay)

Cornell:
Q. Has he been there for a while, too?

[redacted]
A. Yeah.

Cornell:
Q. Are there two trustees for 44?

[redacted]
A. There's two other ones but I don't, I can't even remember.

Cornell:
Q. Okay, but there's other two for 4400 is what I'm saying. There's a total of four, two on each side?

[redacted]
A. Yeah, two for each side.

Nemeth:
Q. But these were the only two that were up and around that night, is that right? Both of them?

[redacted]
A. Yeah, I remember seeing.

Cornell:
Q. So it's possible that the other trustees that were on A and C Row could have been available to see this and you wouldn't know it, right?

[redacted]
A. No, I can say that they could have seen the very initial touch and the spin and then . . .

Nemeth:
Q. If you'd started in AC and then quickly followed his way over.

[redacted]
A. Then they quickly came right over and then there's no way they could have possibly have seen it unless they were in the showers on the other side, but they weren't and I know that for sure.

Cornell:
Q. Who was the deputy in the booth that Ruth called, do you know?

[redacted]
A. I don't know his name.

Cornell:
Q. You seen him since?

[redacted]
A. No. I haven't seen, I've only seen a couple of the guys.

Cornell:
Q. Was he the one that had the orange hair?

[redacted]
A. Yeah, he was, I'm pretty sure.

Nemeth:
Q. Which one it (inaudible)

[redacted]
A. Now that I think about it. He was, wait, I'm not sure, I can't be positive, I'm *almost* positive though that it was the guy that had his leg, that guy.

Cornell:
Q. The one that was in the booth?

[redacted]
A. Yeah, (came in) he went toward the booth and made the phone call but I, or yeah, he was the one who was clicking the gate to let the other deputies in.

Cornell:
Q. Well then somebody would have had to have gone into the booth to relieve him, wouldn't they?

[redacted]
A. Yeah, it was, there, I wasn't, I didn't see any of that (uh-huh) I was just watching the fight (uh-huh) at that point. (okay)

Nemeth:
Q. Have you talked to [redacted] wife any more or anything like that? Or any–, anybody else about this since we talked to you?

[redacted]
A. No, no, I haven't talked to nobody. (okay)

Nemeth:
Q. That's all I have for now, we may be talking to you again.

Cornell:
Q. You had some other question?

Nemeth:
Q. Well, there was, I got a few of a lot already, the ones that I was interested in, the hair, the grabbing of the hair, the one, two, three. How many deputies do you think were involved? How many people originally came?

[redacted]
A. I don't know, four.

Nemeth:
Q. About four more after the initial thing, or?

[redacted]
A. Yeah, four or six and then, you know, there was definitely at least around at all times.

Cornell:
Q. [redacted] I want you to sign this thing, I want you, just sign up here along that red line, just know that you're the one that, that filled this out so we have your signature there.

Nemeth:
Q. We'll probably be talking to you again, [redacted] We'll see if we can get you in to Wayside. Anything else?

Cornell:
Q. The one other thing I, that I don't remember is to whether or not you ever saw any deputies hitting with any kind of a, an impact weapon, or the (inaudible)?

[redacted]
A. No, I can't say for sure, I can't say for sure. (okay)

Cornell:
Q. Alright.

Nemeth:
Q. Okay, you just said you, earlier you said you saw a guy with a flashlight (yeah) but, but then when we asked you, first you thought the cut in his head came from the flashlight (right) but later you said, "Well, I didn't see that happen."

[redacted]
A. Oh, yeah, because I cannot lie, I don't wanna give you any lies.

Nemeth:
Q. Okay, right, we don't want you to either.

[redacted]
A. I don't want any lies.

Nemeth:
Q. Right, so . . .

[redacted]
A. I don't know for sure. (don't know)

Nemeth:
Q. But you did not see what, he hit him with anything?

[redacted]
A. No, I can't say I think so. (okay)

Nemeth:
Q. Just to make sure and clarify, you only saw people punching with their fists, (right) and kicking him with their shoes and their feet, right?

[redacted]
A. Right, exactly. (okay)

Nemeth:
Q. Did, well where were they when they went to the ground with him, did they come all the way over from the AC side to right in your side, is that where they fell to the ground, where you've indicated?

Cornell:
Q. Initial contact with the X . . .

[redacted]
A. Yeah.

Nemeth:
Q. Initial contact with the X, (and then force was used) F for the force or fall or whatever.

Cornell:
Q. Yeah, force was used right there.

Nemeth:
Q. Okay, and is that where they fell, too, on the ground.

[redacted]
A. Fell right in front of, you know, right in front of me.

Nemeth:
Q. Right in front of you, is that where you said there was a distance of about twelve inches from your eyes.

[redacted]
A. Less then that, it was less then that.

Nemeth:
Q. But you were standing out in the hallway.

[redacted]
A. I was standing right with my face, like the bars were right there. (like watch 'em) I could have put my hand and just touched them, you know.

Nemeth:
Q. Really? That close.

[redacted]
A. Yeah, (okay) yeah.

Nemeth:
Q. And you also . . .

Cornell:
Q. I'm sorry, well you had also said that they, that you're sure that [redacted] fell on his right shoulder. The two of them fell to the floor before the other deputies got there, right?

[redacted]
A. Yeah, they fell.

Cornell:
Q. Or is that not right?

[redacted]
A. No, they fell down before the deputies got there

Nemeth:
Q. Nobody else was there?

[redacted]
A. Nobody was there.

Nemeth:
Q. Just them two?

[redacted]
A. Them two only.

Nemeth:
Q. Were they bear hugging each other at that point?

[redacted]
A. Yeah, and they were . . . and, oh, yeah, I forgot, well [redacted] got him running, this is how they ended up falling right there, they went up like that against the bars.

Nemeth:
Q. They were, but they were holding on to each other?

[redacted]
A. Yeah, and they still . . .

Nemeth:
Q. They were running, boom into the bars, where you were?

[redacted]
A. Yeah, and then they just fell, you know, to the ground.

Nemeth:
Q. Is that the bars you were holding on to?

[redacted]
A. Yeah, yeah. (okay)

Cornell:
Q. Now how did they hit?

[redacted]
A. Or–, I mean, order . . .

Nemeth:
Q. Were they holding each other face to face?

[redacted]
A. Yeah, face to face.

Nemeth:
Q. Almost like they were dancing like, something like that?

[redacted]
A. Yeah, exactly. And [redacted] was the one that was putting for–, making him go forward (uh-huh) and then the deputies back, hit the bars (uh-huh) and then they fell on their right shoulders, or well, no, the deputy fell on his right so that would have to be [redacted] left.

Cornell:
Q. Okay, hang on 'cause that's a little different than you told me the other night.

[redacted]
A. Yeah, I know.

Cornell:
Q. Okay so you got, let's do this for (inaudible). Time out a second, think about this, let's do this real slow.

[redacted]
A. Alright. (okay)

Cornell:
Q. We've got, we've got [redacted] spinning and you're telling me both deputies had each other in a bear hug over on the C, A and C side, right?

[redacted]
A. Yeah. (okay)

Cornell:
Q. Somebody told me that [redacted] had the deputy in a head-lock, did you see that?

[redacted]
A. There wasn't a head-lock, there, there wasn't.

Cornell:
Q. Did he have him up around the head?

[redacted]
A. No, they had each other like all around. (okay)

Cornell:
Q. So there was never any head-lock?

[redacted]
A. No, he didn't have a head-lock.

Nemeth:
Q. (inaudible) like around the chest area.

[redacted]
A. Yeah, they were, yeah, they were, they, it wasn't, they both had the same grip (okay) they both have the same grip, no one had an advantage at that point except for that dep, he got pushed up against the bars.

Nemeth:
Q. The deputy did?

[redacted]
A. Yeah.

Cornell:
Q. Okay, so then from that point when they're gripping each other (yeah) [redacted] is going forward, then the deputy would be going backward, (backwards) toward where you're standing.

[redacted]
A. Toward where I'm standing.

Cornell:
Q. Right?

[redacted]
A. Right.

Cornell:
Q. And, and then [redacted] runs the deputy into the bars.

[redacted]
A. Right.

Cornell:
Q. The deputy's back and head hit the bars or not? Or do you know?

[redacted]
A. Just his back, (okay) it wasn't that, his head was forcefully going forward. (okay)

Cornell:
Q. So then they both fall to the floor and how did they land?

[redacted]
A. It would have to be the deputy landed on his right shoulder and [redacted] landed on his right shoulder, that's how it happen, (okay so) it had to have happen because if he was fa–, if he was standing (yeah, go and do it if you need to recreate yourself) backwards he'd be, if [redacted] was like this the deputy was like this then and they fell this way, which would positive, then it would have to be either deputy's right shoulder and [redacted] left, that's what happen, for sure.

Cornell:
Q. Okay, now wouldn't they, when [redacted] hit the ground, hit the ground side by side (yeah) not one on top of the other?

[redacted]
A. No, side by side.

Nemeth:
Q. Okay then, now . . .

Cornell:
Q. So, so [redacted] lands with his left shoulder on the floor, if his head strikes the floor, (inaudible) open the laceration on the eye.

[redacted]
A. But I, I know that . . . No, because it didn't, there was no, I saw his face clear after that.

Cornell:
Q. But how can you see that if the deputy's back is now to you?

[redacted]
A. Because . . .

Cornell:
Q. What you're describing is that they're falling off to the right and you're standing there watching, to the deputy's right.

[redacted]
A. Because when the, when the deputies came in and turned his face, grabbed his hair and turned his face, I saw his face and there was no blood, *no* blood.

Cornell:
Q. Okay, so it was later then.

[redacted]
A. Later he got that laceration up on the eye.

Cornell:
Q. Did you see [redacted] face when they first fell to the floor?

[redacted]
A. Yes.

Cornell:
Q. How could you see that if the deputy's back was to you?

[redacted]
A. Because . . .

Cornell:
Q. Was the deputy's back to you?

[redacted]
A. Yeah, but it was, it was, what happen when, when, okay, I didn't, okay, I didn't see right when it fell (uh-huh), okay, but I *did* see his whole face (uh-huh, after that) after that when the other deputies came

(okay) and grabbed his hair (uh-huh) and twi–, tried to twist his head so he could punch him (uh-huh) and, and he had no blood on (okay) him whatsoever, (alright) no blood.

Nemeth:
Q. Let me ask you this, after the other deputies got there, how long about, approximately, 'til [redacted] was handcuffed, if you can estimate?

[redacted]
A. I don't know, I said a minute last time.

Nemeth:
Q. That's about right, about a minute?

[redacted]
A. Yeah, no, it wasn't over. (okay)

Nemeth:
Q. I know, hang on a second, I'm getting there. Now, prior to him being handcuffed, where were his hands? [redacted].

[redacted]
A. They were there trying to get 'em, I saw one, you know, I saw, at one point the deputy had his hand and he was banging it up against the bars and then I saw his hand behind his back.

Nemeth:
Q. You're moving your left, is that the hand you saw behind his back?

[redacted]
A. Yeah, I'm not (not sure, okay) sure 'cause I remember just, it was all so hap–, everything was going so fast.

Nemeth:
Q. I realize you may not have gotten all of this, I'm just asking for what details you can know. Did, so one minute later his hands are behind his back, was he resisting during that minute to put his arms back, or what?

[redacted]
A. No, he wasn't, to my, no, he never resisted.

Cornell:
Q. Well he obviously resisted when he had the deputy's hand back.

[redacted]
A. Yeah, he did (uh-huh) at the beginning but after, I mean, I don't see how anyone could not resist when you knock somebody, (yeah) deputies.

Nemeth:
Q. I'm fine, I understand that (inaudible) (you know, I don't wanna say that) did he, did you see him holding it, like forcefully holding his arms underneath him or in front of him or, or were they just hid?

[redacted]
A. No, I didn't see that but it's hard to say, I mean, I don't wanna put, I don't wanna seem like I'm

favoring either side (yeah) because I'm not, (that's fine) I'm just saying that what I think with validity, it shouldn't be that hard to, to, to get him.

Nemeth:
Q. So about one minute later after the struggling, he's handcuffed and then you said that wasn't the end of it?

[redacted]
A. No.

Nemeth:
Q. How much longer from handcuffing 'til the end of it?

[redacted]
A. About 30 seconds, 45 seconds.

Nemeth:
Q. 30 or 45 more seconds.

[redacted]
A. And then they have, and then complete, he was tied all the way.

Nemeth:
Q. With his legs tied behind him and everything like that?

[redacted]
A. Yeah, all over.

Cornell:
Q. And during that time, after he's handcuffed, you told us before, after he's handcuffed, they're continuing to kick him?

[redacted]
A. Yeah, well, you know, he was, hands were cuffed, (uh-huh) that was the start of the, of the, of, you know, that was the beginning of his restraint, you know, and then they wanted to get the legs and, and then a–, and then after go up.

Cornell:
Q. Was he resisting them putting the hobble on him?

[redacted]
A. I can't be positive, I mean, I, his leg was in the air and he was kind of struggling.

Cornell:
Q. Did you hear them giving him any orders about what (inaudible)?

[redacted]
A. I just remember hearing [redacted] saying, "I'm dying! I'm dying!" And then the cops, "You're not dead yet! You're not dead yet!" And all this other shit, and then.

Cornell:
Q. Okay, but did you hear the deputies give him any orders about like, "Put your legs together," or?

[redacted]
A. No, I can't be positive, I, (okay) they could have but I'm not, I'm not positive.

Nemeth:
Q. Is that the point you saw the guy with the red hair holding his leg up?

[redacted]
A. Yeah.

Nemeth:
Q. And the guy with red, the guy, deputy with the red hair was standing up?

[redacted]
A. Standing up.

Nemeth:
Q. And [redacted] face and stomach were on the ground?

[redacted]
A. Yeah.

Nemeth:
Q. And what about his other leg?

[redacted]
A. His other leg was down.

Nemeth:
Q. Was anybody holding it?

[redacted]
A. No, not that I can tell.

Nemeth:
Q. And the red haired guy had which leg?

[redacted]
A. His right leg.

Nemeth:
Q. Had [redacted] right leg.

[redacted]
A. Yeah.

Nemeth:
Q. And what were the other deputies doing at that time?

[redacted]
A. I guess they must have been . . .

Nemeth:
Q. Well, don't guess, just tell me what you saw.

[redacted]
A. I mean, (did you see) they were all around him, they were beatin' on him, so that's all I can say and they have (inaudible) you know, I mean they were, they were doing something, I mean, they were trying to get his other leg or something like that.

Nemeth:
Q. See anybody kicking him?

[redacted]
A. Yeah, I already said that.

Nemeth:
Q. Well, I'm not trying to trick you, I'm just trying . . .

[redacted]
A. I know, they . . .

Cornell:
Q. At any time, while you're hearing this, during this whole thing, at any, did you watch this thing from start to finish or did you ever look away?

[redacted]
A. I looked up, I looked away but, but for, you know, just because I was sick, sicken but I saw every, you know, everything, I mean, I might have missed a couple of blows.

Cornell:
Q. Well, I mean, at what point did you look away?

[redacted]
A. Just when I saw all this blood and I, I just, somehow I turned and, and then, then I came back and I looked real close again and then a deputy said, "Turn around! Turn around!" And I turned around.

Nemeth:
Q. Was it over then, when he said "turn around"?

[redacted]
A. Yeah, yeah.

Cornell:
Q. Okay so, so did the deputies order you to look away?

[redacted]
A. Yeah.

Cornell:
Q. How many times do you think they did that?

[redacted]
A. Twice, (okay) and this was after it was over. (okay)

Cornell:
Q. During the time this whole thing's going on and you're standing there watching, did they ever order you to look away?

[redacted]
A. I think he yelled or something, I'm not sure. I didn't look away though. (okay)

Nemeth:
Q. When did [redacted] start bleeding from his head, do you know? Before or after he was handcuffed?

[redacted]
A. I, I could ask, I have to say after because I didn't see any blood until after he was, I didn't see any blood until, I mean, until he was hog-tied, complete, and the cops were gone, were all away, standing away then I saw how, I just, the blood just was pouring, just pouring.

Cornell:
Q. Okay but you don't, you told us before, you don't know when the injury happen so (no, I didn't) it would be, truth is you don't know at what point, I mean, if he gets cut and it doesn't bleed right away (yeah), I mean, it could, it could have waited until (right) after he got hobbled, (right) and then it got worse, I mean, (right) it, it's possible, is it not possible that or are you telling me that it's no–, there's no way that when [redacted] hit the floor that that cut couldn't have happened?

[redacted]
A. Oh, I'm positive about that, that cut didn't happen.

Cornell:
Q. And *how* are you positive about that?

[redacted]
A. Because I *saw* his face within six inches and there was no, his face, there was nothing, I mean.

Cornell:
Q. It was, you never saw a cut after he hit the floor?

[redacted]
A. No, there was no cut, it wasn't there then, it couldn't have been and I'm positive about that. (no)

Nemeth:
Q. Okay. How much after from the time he hit the floor did the cut come in, time-wise, do you know?

[redacted]
A. No, see I don't, I told you at the end when it was all over I just remember his face was [redacted] and all [redacted] you know, there was a pool of blood near his head.

Cornell:
Q. Who cleaned up the blood?

[redacted]
A. Some nurse came in, a nurse.

Cornell:
Q. No, could cleaned up the blood on the floor behind him?

[redacted]
A. I don't know.

Cornell:
Q. Did you ever see anybody do that?

[redacted]
A. No. I saw the nurse hurting him, shit on, and he was screaming and, and I remember the Senior or someone said, "It was all over and no one's gonna hurt you any more," and, and then . . .

Cornell:
Q. What happen to you after this, I mean, you're still in the shower?

[redacted]
A. Yeah, and I kept asking and repeating, "I don't wanna see any more of this, can you please get me back to my cell," and first they ignored me and then one guy listened to me and he instantly opened the shower door and racked the gate, you know. (okay)

Nemeth:
Q. Also the question I had for you today, we may come back and talk to you again, what do you say? We'll end the tape at 1321.

I/M [redacted]

I.A.B. INTERVIEW 10-29-94

WITNESS INTERVIEW

CASE NUMBER IAB 008383

[redacted] Booking #[redacted]

Nemeth:
Q. Today's date is Saturday October 29th. Time is 0133 AM. This is Sergeant John Nemeth from Sheriff's Internal Affairs and as we told you before going on tape, this is Sergeant Cornell from the same unit. We're here to (inaudible) the investigation on an incident involving use of force against an inmate in Module 4400 several days ago on the 27th. Now we are present here today at Men's Central Jail interviewing you, and go ahead and give your name.

[redacted]
A. My name is [redacted]

Nemeth:
Q. How do you spell your last name, [redacted]?

[redacted]
A. [redacted]

Nemeth:
Q. Okay, do you have a middle name?

[redacted]
A. Yeah, it's [redacted].

Nemeth:
Q. [redacted]

[redacted]
A. Yes.

Nemeth:
Q. What's your birthdate, [redacted]?

[redacted]
A. [redacted]

Nemeth:
Q. Okay, and your home address?

[redacted]
A. [redacted]

Nemeth:
Q. And the zip code?

[redacted]
A. [redacted]

Nemeth:
Q. And a home phone number.

[redacted]
A. [redacted]

Nemeth:
Q. Is that area code [redacted]?

[redacted]
A. Yeah

Nemeth:
Q. Okay, do you have a work address?

[redacted]
A. No sir.

Nemeth:
Q. Or phone number?

[redacted]
A. No.

Cornell:
Q. What's your booking number?

[redacted]
A. It's [redacted]

Nemeth:
Q. Okay. All right, [redacted] what I want to ask you about is first I'm just going to ask you to tell me what you remember about this incident. Before we went on tape, we briefly asked you if you remembered this and you said you did. Why don't you go ahead and start describing what you remember happening, from the very beginning of . . . of the event, whatever events you think are connected.

[redacted]
A. Well, I'll tell you from . . . exactly from the beginning.

Cornell:
Q. [redacted] just want to tell you one thing before you get started. Okay. We're here to find out the truth.

[redacted]
A. That's all I'm going to say.

Cornell:
Q. We don't want to hear any rumors that you heard. We want to know exactly what you saw and give us . . . give us the true summary of what you saw.

[redacted]
A. That's all I'm going to do.

Cornell:
Q. Okay. We want to make sure before we go on.

[redacted]
A. Okay. Our . . . our cell was racked (inaudible) before it was racked because someone was getting transferred, and me and his name, his nickname was [redacted] . . .

Cornell:
Q. Okay.

[redacted]
A. Okay . . . came out of the cell. We weren't supposed to come out of the cell, but we came out of the cell anyway.

Nemeth:
Q. She's just taking notes, don't worry. Okay?

[redacted]
A. And then we were out on the freeway for at least a half an hour and then the deputy finally said, "Go back to your cells," right, and I was in the process of buying a candy bar or something and I didn't go back to my cell in time and [redacted] went, "This is . . ." I don't know his name, the guy, that we're talking . . .

Cornell:
Q. You call him [redacted] and that's fine. Okay. Describe him for me though first.

[redacted]
A. He's a Black person with braids and (inaudible) short hair. He went into the cell and I didn't, so the deputy asked me to come up and asked me why I didn't go into the cell when he told me and I told him, "Well, I was trying to care of some business," so he told me to go into the shower room and he locked me in the shower room. Okay, and then about a half an hour went by and I guess they racked Gate #4 again and [redacted] came out when he wasn't supposed to again, after he had all ready come out the first time and gone back in, he came out again and he was walking up and down the freeway and then dep– . . . one of the deputies asked him what he was doing and he said that he was . . . wanted to see somebody, or something. He didn't know what he was doing really, so he told him to go in the shower room, but he wouldn't go in. The deputy said, "Go in the shower room." He opened the door. I was standing right there and [redacted] would not go in the shower room, so then he racked the shower . . . closed the shower door and then he called somebody up . . . a deputy came in and one other deputy came into the office where the control room and then I forgot his . . . Deputy Orlin, I think it was, came out and opened Baker, the Baker Gate and told [redacted] to come up to the . . . to the . . . the . . .

Cornell:
Q. The booth there?

[redacted]
A. . . . the sallyport or whatever, where everyone walks in and out and so he was reluctant to come up but he did . . . [redacted] . . . and he walked up the steps and he walked . . . he walked up right to the middle of the sallyport and then Deputy Orlin put his hand on his back to push him up against the wall and he spun around. Right when Deputy Orlin's hand hit his back, he spun and then it just started. It was a little

fight, you know, and then it was like a bear hug. They both had a bear hug on each other, okay, and then all of a sudden that went on for . . . they went up against the bars. I was right there and then they fell down to the ground and I can't remember who was falling (inaudible). The deputy had [redacted] in a . . . in a bear hug but they were both on the ground and then the next thing I saw was like maybe six deputies come in and . . . and they just kept beating on him, and everyone was hitting on him, full force, just many, many times, and I . . . I mean I couldn't . . . I was . . . I wanted to say something but I . . . you know, I just kept . . . I kept walking back and even . . . I mean he was totally. . . he wasn't even moving and they were hitting him and kicking him and telling him, you know, "You're dead," and "breaking, we're going to break your fingers," and . . . that's pretty much . . . I mean . . . and then the deputies told me to, "Turn around," and all this and that. That's exact– . . . that's what I saw.

Cornell:
Q. Okay. How far away were you from the location where this fight went on. Could you estimate it?

[redacted]
A. Two feet. I was a foot from . . . I was standing on the shower bench when it first . . . when he first went down and they were . . . I was I mean this close to the . . . to the . . . to [redacted] head.

Nemeth:
Q. Okay, you're holding your fingers out about 12 inches from . . .

[redacted]
A. Yeah, I was a foot. I was standing on the bench in the shower room.

Nemeth:
Q. You're in the B Row Shower Room, is that right?

[redacted]
A. Right.

Nemeth:
Q. Number 4400?

[redacted]
A. Right.

Nemeth:
Q. Okay.

[redacted]
A. And the bars go to the wall, so I was standing . . . there's the floor and there's the bars and I was like that.

Cornell:
Q. Okay. So it's lower, when you're desc– . . . for the tape because it's hard to describe this. What you're telling me is that . . . that the level of the floor of the shower is actually lower than the level of where the fight was happening.

[redacted]
A. Right.

Cornell:
Q. So you're standing there literally at floor level with the top tier where the fight's happening.

[redacted]
A. Exactly.

Cornell:
Q. Okay, and you're looking through the bars and watching this?

[redacted]
A. Watching.

Cornell:
Q. Okay.

Nemeth:
Q. Let me ask you a question, okay? You were in the shower room and was this fight occuring where the phones would be in the . . . in the sallyport area or where?

[redacted]
A. No. It was . . . it was right where the B and D gate . . .

Nemeth:
Q. Okay.

[redacted]
A. . . . are located in the entrance.

Nemeth:
Q. All right, and . . . exactly what cell were you in with [redacted]

[redacted]
A. 4.

Nemeth:
Q. B-4?

[redacted]
A. Yes.

Nemeth:
Q. Baker 4?

[redacted]
A. Yes. Baker 4.

Nemeth:
Q. Okay, and when did you come into custody of the Sheriff's Department?

[redacted]
A. Last Thursday.

Nemeth:
Q. Okay, and what are you charged with?

[redacted]
A. 484 Petty Theft.

Nemeth:
Q. Okay, and were you assigned to Baker Row right after or shortly after . . .

[redacted]
A. Yeah. Yeah, right when I got in here.

Nemeth:
Q. Okay. When did you first get to Baker 4, and 4400?

[redacted]
A. Thursday. Last Thursday.

Nemeth:
Q. Last Thursday?

[redacted]
A. Yeah.

Nemeth:
Q. Okay, and is that the same day this happened, or do you remember?

[redacted]
A. No, it was a week later.

Nemeth:
Q. Okay, so it was the . . .

[redacted]
A. Today's what, Friday?

Nemeth:
Q. Today is actually Saturday morning. So you were . . . it was a week before that you got there.

[redacted]
A. Yeah, okay. I've been there a week.

Nemeth:
Q. And was [redacted] in the cell with you the whole week?

[redacted]
A. No, only for like three days.

Nemeth:
Q. He came in after you?

[redacted]
A. Yeah.

Nemeth:
Q. Did you become friends with him?

[redacted]
A. Yeah, he was kind of . . . kind of sketchy, so I didn't . . .

Nemeth:
Q. But you . . .

[redacted]
A. . . . I talked to him just because he would just ramble on. He was just non stop. He could . . . he would never go to sleep or nothing.

Nemeth:
Q. Um-hm.

[redacted]
A. I never saw him sit down or . . .

Nemeth:
Q. Okay, but you talked to each other like four or five times.

[redacted]
A. Yeah. Right.

Nemeth:
Q. Is . . . go ahead and describe [redacted] You say he's a male, Black, about how tall is he?

[redacted]
A. About 5'10".

Nemeth:
Q. Okay.

[redacted]
A. He's probably about 140.

Nemeth:
Q. All right. About how old?

[redacted]
A. Um, 45, maybe.

Nemeth:
Q. Okay, you said braids in his hair. Any . . . any other . . .

[redacted]
A. No.

Nemeth:
Q. . . . distinguishable marks, moustache, beard, or (inaudible) . . .

[redacted]
A. No. No.

Nemeth:
Q. . . . or anything . . .

[redacted]
A. No. No. He has (inaudible) until after what I saw of him.

Cornell:
Q. Okay. Why . . . why don't we start from the top and let's go over . . . I mean . . . go little bit by little bit here to make sure that I'm clear on what you're telling me, 'cause I want to make sure I get your statement right. Okay, you guys are both on . . . on a . . . in Baker 4 inside the cell in 4400 and for some reason the gate is racked open so an inmate can be moved out of the cell. Okay. Do you know which inmate left?

[redacted]
A. Um. He was a light guy and he was over there for like a day.

Cornell:
Q. Okay.

[redacted]
A. I don't know . . .

Cornell:
Q. So at that point then you and [redacted] both come out of the cell.

[redacted]
A. Yeah.

Cornell:
Q. Why did you do that?

[redacted]
A. Just to get out of the cell, you know, just to roam, whatever.

Cornell:
Q. Okay, and . . . and so you're out on the freeway for about a half an hour?

[redacted]
A. Right.

Cornell:
Q. And what are you doing during that time?

[redacted]
A. Just talking to people and passing candy bars.

Cornell:
Q. Okay, were you trying to get any medication from anybody?

[redacted]
A. No.

Cornell:
Q. Okay, so if somebody told me that they were . . . they gave you a sandwich and you took that sandwich and tried to trade it for a sleeping pill, would that be a true statement?

[redacted]
A. I did do that.

Cornell:
Q. You did do that?

[redacted]
A. Yes.

Nemeth:
Q. First of all let me tell you, don't worry about, you know, just answer the truth.

Cornell:
Q. We're prepared for all those jail violations, and that doesn't matter. Okay. We want to know what happened with the deputies and [redacted] That's what we're interested in.

[redacted]
A. Right. You asked me and I told you.

Cornell:
Q. If you need a sleeping pill and you got a sandwich from someone, [redacted]

[redacted]
A. No, not from [redacted]

Cornell:
Q. Okay, you got a sandwich from another inmate?

[redacted]
A. Yeah.

Cornell:
Q. You took it down and traded it for a sleeping pill so you could sleep?

[redacted]
A. Yeah. But that's why I got thrown in the shower room.

Cornell:
Q. Okay.

[redacted]
A. It's because a deputy told me, "Go to your cell," and I just had got the sandwich . . .

Cornell:
Q. Okay.

Nemeth:
Q. And then you completed the deal before you went back to the cell?

[redacted]
A. Yeah. Yeah. That's how I ended up seeing the whole thing.

Cornell:
Q. Okay, did you ever get the sleeping pill?

[redacted]
A. Yeah, I did later on. Yeah.

Nemeth:
Q. Okay. So you didn't go back to your cell, right? You went ahead and you went ahead and . . .

[redacted]
A. (Inaudible) Yeah.

Nemeth:
Q. . . . closed the door and told you to go to the shower room, so you're like in the penalty box?

[redacted]
A. Right.

Nemeth:
Q. All right. Go ahead.

Cornell:
Q. I see, you're in the penalty box, right?

[redacted]
A. Right.

Cornell:
Q. Okay. So then [redacted] goes back inside the cell.

[redacted]
A. Yeah. He went in. He listened.

Cornell:
Q. He goes back. You're in the shower and [redacted] inside the cell and you're thinking, "Okay, well, here I am in the shower."

[redacted]
A. Yeah. Yeah.

Cornell:
Q. Did you take a shower when you were there?

[redacted]
A. No. I just sat there and . . .

Cornell:
Q. You just sat there and being in the penalty box.

[redacted]
A. Yeah.

Cornell:
Q. You figured sooner or later they'd come and get you and . . .

[redacted]
A. Yeah. I kept asking the porters and they said, "Oh, you're going to the hole and all this."

Cornell:
Q. Did you take the sleeping pill?

[redacted]
A. Yeah.

Cornell:
Q. While you were in the shower?

[redacted]
A. No. I kept it in my pocket. So they take it then, right? After the incident I'd take it.

Cornell:
Q. So then about a half an hour passes and the gate for Baker 4 is wrapped open again for somebody else, for some other reason?

[redacted]
A. Yeah, for some other reason, I don't know why.

Cornell:
Q. And out popped [redacted] again, right?

[redacted]
A. Yeah. And out popped [redacted] and he . . .

Cornell:
Q. (Inaudible)

[redacted]
A. If you want me to tell you, he also, I asked him to get me a blanket and he got me a blanket.

Cornell:
Q. When did you ask him that?

[redacted]
A. Right when he came out. He walked up and he was like, "[redacted] what are you doing. Go get me a blanket."

Cornell:
Q. Why did you ask him that?

[redacted]
A. 'Cause it was cold and I thought I was going to be in the shower all night. Yeah.

Cornell:
Q. Did he get you a blanket?

[redacted]
A. Yeah, he went and got me a blanket and threw it and I pulled it through the bars and then he kept talking back and forth and then. . . then that's when Deputy Orlin said, "What the hell is he doing out there again."

Nemeth:
Q. What's the name, again. Say it again. Deputy who?

[redacted]
A. Orlin, I think.

Nemeth:
Q. Mormand?

[redacted]
A. Orlin.

Nemeth:
Q. Orlin.

Cornell:
Q. Now, is he the module officer?

[redacted]
A. Yeah. I think. He's on tonight.

Nemeth:
Q. He's the same guy tonight, as the same guy we're talking about. Where is he?

[redacted]
A. Yeah. Yeah he's inside the control booth.

Cornell:
Q. And you think his name is Orlin?

[redacted]
A. Yeah.

Cornell:
Q. Are you sure?

[redacted]
A. I'm positive.

Cornell:
Q. You're positive his name is Orlin?

Nemeth:
Q. What is . . . how are you positive?

[redacted]
A. 'Cause I saw his name tag just today.

Nemeth:
Q. What does it spell like.

[redacted]
A. A . . . O - R - L - I - N.

Nemeth:
Q. O - R - L - I - N. Orlin. And he's working right now in Module 4400.

[redacted]
A. Yeah. It's the same guy.

Nemeth:
Q. All right.

Cornell:
Q. Is he the normal guy that's in that module?

[redacted]
A. I don't know but he's the same guy that he was . . .

Nemeth:
Q. What does he look like?

[redacted]
A. He's a white guy, kind of . . .

Nemeth:
Q. How old?

[redacted]
A. Looks like he's like 30.

Nemeth:
Q. Color of hair?

[redacted]
A. Light brown.

Nemeth:
Q. Moustache?

[redacted]
A. Yeah.

Nemeth:
Q. Any glasses, or no glasses?

[redacted]
A. No glasses.

Nemeth:
Q. Brown moustache, light brown hair?

[redacted]
A. Maybe a moustache, I'm not positive.

Nemeth:
Q. Okay, and how tall is he though?

[redacted]
A. He has a light complexion.

Nemeth:
Q. What?

[redacted]
A. He's about 5'11".

Nemeth:
Q. So pretty tall, almost 6 feet.

[redacted]
A. Yeah.

Nemeth:
Q. Is he slender, medium built?

[redacted]
A. He's slender.

Nemeth:
Q. Slender built?

[redacted]
A. Yeah. He's not big at all.

Nemeth:
Q. So anyway, I didn't mean to interrupt you. My partner was asking a question.

[redacted]
A. Okay.

Nemeth:
Q. So [redacted] (inaudible). You ask him for a blanket and he gets you the blanket and you pull the blanket through. Did the deputy say anything to him over the P.A. Did he say, "Hey, get the hell back in the cell," or anything like that?

[redacted]
A. No. He just . . . he . . .

Nemeth:
Q. Can you see the inside of the control booth from where you are?

[redacted]
A. From where I am?

Nemeth:
Q. No, when you're in the shower.

[redacted]
A. Yeah. Yeah.

Nemeth:
Q. I see straight shower.

[redacted]
A. Oh, yeah, I can see.

Nemeth:
Q. What's the distance?

[redacted]
A. 8 feet.

Cornell:
Q. Okay, and what's the lighting conditions?

[redacted]
A. Minimal, but I can see Deputy Orlin, what he was doing. I was trying to get his attention. I kept ask . . . trying to get his attention before [redacted] even came out, you know, to . . .

Cornell:
Q. Why?

[redacted]
A. 'Cause I wanted to get, you know, either whatever I was going to get, or go back.

Nemeth:
Q. When did you move out of the shower?

[redacted]
A. Yeah, I wanted to get the hell out of there.

Cornell:
Q. So, Orlin doesn't say anything to him, he just comes out of the booth?

[redacted]
A. Comes out of the booth, yeah, and then . . .

Cornell:
Q. And another deputy goes in the booth, first?

[redacted]
A. Orlin comes out of the booth and then he looks down the freeway from the Baker Gate and then he said, "Hey, come on up here," okay and then [redacted] wouldn't . . .

Cornell:
Q. . . . wouldn't do it.

[redacted]
A. No.

Cornell:
Q. He doesn't take him to Baker?

[redacted]
A. No. So then Orlin slammed the Baker gate shut, locked it.

Cornell:
Q. And you said there was another deputy that came into the booth.

[redacted]
A. Okay, then . . .

Cornell:
Q. Who was that?

[redacted]
A. . . . he got on the phone . . .

Cornell:
Q. Okay.

[redacted]
A. Okay. I saw him get on the phone . . .

Cornell:
Q. Okay.

[redacted]
A. . . . and then all of a sudden . . .

Nemeth:
Q. Pay phones or those special phones?

[redacted]
A. . . . No, phones inside . . .

Nemeth:
Q. Prowl phones?

[redacted]
A. . . . inside control booth phones, and then I'd seen him hang up and then all of a sudden a deputy came in through the door.

Nemeth:
Q. Who was that?

[redacted]
A. I don't remember that deputy's name.

Nemeth:
Q. What's he look like?

[redacted]
A. He had orangish hair, short and spiked, bright orange.

Cornell:
Q. Is he white?

[redacted]
A. Yeah.

Cornell:
Q. How old is he?

[redacted]
A. 35.

Cornell:
Q. How tall?

[redacted]
A. 6 feet.

Cornell:
Q. How much does he weigh?

[redacted]
A. 180.

Cornell:
Q. Pretty good build?

[redacted]
A. Yeah, he was bigger than Orlin. Bigger.

Cornell:
Q. What kind of build? Heavy build, light build, medium build?

[redacted]
A. Medium build.

Cornell:
Q. Was his hair spiked?

[redacted]
A. Yeah.

Cornell:
Q. Like a flat top?

[redacted]
A. Yeah.

Cornell:
Q. Padded?

[redacted]
A. Yeah.

Cornell:
Q. I don't want to put words in your mouth, but is that the style?

[redacted]
A. Yeah, that's the style.

Cornell:
Q. Yeah, that's what I'm asking.

[redacted]
A. Exactly.

Cornell:
Q. The style of haircut was a flat top.

[redacted]
A. Right.

Cornell:
Q. Is that what you mean when you say spiked?

[redacted]
A. Right.

Cornell:
Q. Okay. So he comes into the booth then what happens? Orlin then comes back out of the booth, is what you said at the . . .

[redacted]
A. Yeah, Orlin came out of the booth and shut, locked the booth door, the control room door, then they racked the Baker Gate open and then he told [redacted] "Come on up, what are you doing," and he was reluctant to come up, but he did. He walked up the stairs and then he walked into the little thing, the sallyport, or whatever, and then Orlin wanted to, you know, like they always love to push us up against the wall.

Cornell:
Q. Did Orlin, did you hear Orlin tell [redacted] to get up against the wall?

[redacted]
A. Yeah. He said, "Come on."

Cornell:
Q. What did [redacted] say when you said that?

[redacted]
A. Nothing. He just. It all happened, but right as he said it and once his hand touched his back, it was . . . he just twisted like that.

Cornell:
Q. [redacted] turned around and twisted (inaudible) . . .

[redacted]
A. Twisted and it just was . . .

Cornell:
Q. Okay.

[redacted]
A. Right.

Cornell:
Q. Let's take that a little more specific, now. Okay. Orlin tells him to get up against the wall.

[redacted]
A. Right.

Cornell:
Q. Right. Is [redacted] facing him at the time?

[redacted]
A. No, his back was to him.

Cornell:
Q. Okay. So is [redacted] facing the wall?

[redacted]
A. Yes.

Cornell:
Q. Okay, so he tells him to get up against the wall and [redacted] is kind of complying with him . . .

[redacted]
A. Ex– . . . yeah.

Cornell:
Q. . . . or not?

[redacted]
A. Yes he is but . . .

Cornell:
Q. . . . and then the deputy reaches over with which hand?

[redacted]
A. His right hand.

Cornell:
Q. Okay, and where does he touch [redacted]

[redacted]
A. On the, right here.

Cornell:
Q. You're pointing to your right rear shoulder, is that correct?

[redacted]
A. Right.

Cornell:
Q. What . . . what did he do when he . . . when he touched that shoulder?

[redacted]
A. He pushed him.

Cornell:
Q. Forward?

[redacted]
A. Yeah, he usually put him against the wall.

Cornell:
Q. Okay, 'cause you're motioning . . . you're motioning that he's pushing towards the wall.

[redacted]
A. Right. He always tried to pushed him out . . . that's what they like to do . . . I mean they push us up and spread our legs and whatever, but it never got that far.

Cornell:
Q. Did [redacted] say anything to him at all? Now take a minute and think, because I know, it's been a couple of days, but do you remember him making any kind of statements at all?

[redacted]
A. I remember after. I mean.

Cornell:
Q. I mean right now, at this point in time.

[redacted]
A. Right that second?

Cornell:
Q. Right.

[redacted]
A. No, he didn't say anything.

Cornell:
Q. So as soon as the deputy touched, as soon as Orlin touched [redacted] right shoulder, [redacted] spins on him.

[redacted]
A. Right.

Cornell:
Q. And what does he do? He's now facing the deputy, right?

[redacted]
A. Right.

Cornell:
Q. What happens? Does he hit him?

[redacted]
A. No.

Cornell:
Q. Does he kick him?

[redacted]
A. No.

Cornell:
Q. Spit on him?

[redacted]
A. No.

Cornell:
Q. Punch him?

[redacted]
A. Nothing.

Cornell:
Q. What?

[redacted]
A. Just . . . it just became like a . . . there was never really any thrown punches. It was just like a . . . they both went like that.

Cornell:
Q. What you're doing is you're motioning that they grabbed each other in a bear hug.

[redacted]
A. Yeah, and then it was like a push and shove kind of thing.

Cornell:
Q. Okay, so they're face to face. They grabbed each other rather in a bear hug.

[redacted]
A. Right.

Cornell:
Q. Okay. Are they saying anything now?

[redacted]
A. No, just muttering.

Cornell:
Q. Anybody using any profanity?

[redacted]
A. Yeah. Well, not until when the other cops came in.

Cornell:
Q. Okay, but I'm talking about these two. Now, we're one on oue.

[redacted]
A. They weren't saying, they were just grunting, you know.

Cornell:
Q. Okay. And . . . and nobody's throwing any blows?

[redacted]
A. And all this time the guy in the control booth was hitting the electric gate thing to open but no one was coming in. It was just going click, click, click, click, click.

Cornell:
Q. You mean like the main door to the . . . to the . . . so all the deputies could come in the module if they wanted to . . .

[redacted]
A. Yeah, but no one was coming for awhile. That thing clicked like 20 times before someone . . .

Cornell:
Q. Did you see the deputy in the booth call anybody or . . .

[redacted]
A. No, but I just knew that he was hitting that button, that's all. I was just watching and I heard the door thing and I was just waiting, 'cause I knew what was going to happen.

Cornell:
Q. You figured other deputies were going to come in, or that everybody was going to leave, what did you think?

[redacted]
A. No, I figured he was hitting that button and just trying to, you know, waiting for those deputies to come in.

Cornell:
Q. Okay, so then at some point [redacted] and Orlin, what's his name, you call him Orlin . . . ?

[redacted]
A. Um-hm.

Cornell:
Q. . . . did they fall to the . . . to the floor?

[redacted]
A. Yeah, they fell onto the floor.

Cornell:
Q. Okay, and . . . and they're both still holding each other in a bear hug and they fall down to the floor?

[redacted]
A. Right.

Cornell:
Q. Okay, and how do they land?

[redacted]
A. On their side, on their left . . . no wait . . . okay. They fell this way on their right side.

(Tape 1, end Side A–start Side B)

Nemeth:
Q. Okay, continue with side B with interview.

Cornell:
Q. With [redacted] and the time is 0156. Okay, so they land on their right side. Anybody throwing any punches now?

[redacted]
A. No.

Cornell:
Q. Okay. Did they say anything?

[redacted]
A. Just grunts, like . . .

Cornell:
Q. Nobody's 'mother fucking' anybody, nobody's saying anything like that that you remember?

[redacted]
A. Not yet.

Cornell:
Q. Okay, so then what happens, the deputies now come in?

[redacted]
A. Yes.

Cornell:
Q. Okay. And are the two of them holding on to each other?

[redacted]
A. Yeah.

Cornell:
Q. Okay. Then what does the first deputy do that you see?

[redacted]
A. He grabs the side of [redacted] head and starts hitting him in the face with his fist, but he wasn't saying, "Mother Fucker, Mother Fucker," but the punches weren't doing nothing. [redacted] face was clean. There was no blood, okay, but he was hitting him in the face but it wasn't doing nothing.

Cornell:
Q. With his fist?

[redacted]
A. He was leaning over, yeah, with his fist.

Cornell:
Q. That's what your motion is, with the fist, okay?

[redacted]
A. Right with his fist and he had one hand trying to push his head sideways because they . . . they. . . because of the hug that they were in, it was hard for a deputy to get in there and hit him.

Cornell:
Q. So did the deputy have a hold of [redacted] hair or his ear or his face or what?

[redacted]
A. Yeah, his hair.

Cornell:
Q. Like which side?

[redacted]
A. It had to be his left side because he was on his right side and he was twisting his face up so that he could hit it.

Cornell:
Q. Okay, were you able to see [redacted] face when he and the deputy first hit the floor?

[redacted]
A. Um-hm. Right there I was not more than 8 inches away.

Cornell:
Q. He had a laceration over his left eye, [redacted] did. Do you know how he got that?

[redacted]
A. Yeah.

Cornell:
Q. How did he get that?

[redacted]
A. With a flashlight.

Cornell:
Q. And how do you know that?

[redacted]
A. Because I saw the deputies hit him with that.

Cornell:
Q. Describe for me the first deputy that was hitting [redacted] in the face with his fist?

[redacted]
A. He had brown, dark brown hair.

Cornell:
Q. White, Black, Hispanic?

[redacted]
A. White.

Cornell:
Q. Okay, how old?

[redacted]
A. They all seemed to look the same, 35ish.

Cornell:
Q. Okay, dark brown hair?

[redacted]
A. Dark brown, short hair.

Cornell:
Q. Recognize him again if you see him?

[redacted]
A. Um-hm.

Cornell:
Q. Recognize all these deputies again if you see them?

[redacted]
A. Yeah. Most of them.

Cornell:
Q. Okay, and did he have a moustache?

[redacted]
A. Yeah, I think so.

Cornell:
Q. Okay, so possible, right?

[redacted]
A. Um-hm.

Cornell:
Q. Okay, did you know his name?

[redacted]
A. Um-hm.

Cornell:
Q. Okay, did you know his name?

[redacted]
A. No.

Cornell:
Q. Okay, so he hits [redacted] in the face with his fist. How many times would you say?

[redacted]
A. Five.

Cornell:
Q. And does that have any effect?

[redacted]
A. Not really.

Cornell:
Q. Did you see any blood at that time?

[redacted]
A. No.

Cornell:
Q. Okay, then what happens next?

[redacted]
A. Then some more deputies came in and then it was just . . . it was just a mayhem. I mean it was just . . . everyone was hitting full force, kicking him, punching him.

Cornell:
Q. You saw somebody kick him?

[redacted]
A. Yeah.

Cornell:
Q. Okay, where did you see them kick him?

[redacted]
A. In the stomach, chest area.

Cornell:
Q. Okay, how did [redacted] land. How was he . . . he was on the floor . . .

[redacted]
A. He was in the fetal position on his right side.

Cornell:
Q. Okay. Was he ever on his face?

[redacted]
A. No.

Cornell:
Q. Was he trying to cover up so they wouldn't . . . when you say fetal position . . .

[redacted]
A. No.

Cornell:
Q. . . . he was laying . . . was he trying to cover up, or was he just . . .

[redacted]
A. He was . . . he was . . . he was laying like that but they had his hands behind his back, but he was like on his right side like that.

Cornell:
Q. Okay, did you see them put handcuffs on him?

[redacted]
A. Yeah, and they put handcuffs on him.

Cornell:
Q. Okay. How many deputies kicked him?

[redacted]
A. Approximately three or four.

Cornell:
Q. Okay, and where do you think the kicks went? You said the chest.

[redacted]
A. I couldn't tell. Some had to hit him in the face because when I saw, when it was finished, when he was hog-tied, there was a pool of blood and his face was covered with blood.

Cornell:
Q. Okay. Did you see anybody kick him in the lower body, or in the legs or in the back?

[redacted]
A. They kicked him everywhere. I seem them kick him everywhere.

Cornell:
Q. Do you know if they kicked him in the groin?

[redacted]
A. I'm not positive. I can't, but I'm sure, I mean, they were kicking him so many times that . . . you know.

Cornell:
Q. How many times do you think he was kicked?

[redacted]
A. 20.

Nemeth:
Q. Did you ever see anybody grab his legs?

[redacted]
A. Yeah.

Nemeth:
Q. Describe that for us.

[redacted]
A. They had him . . . they had one of his legs up. One guy was standing up and they were trying to bend it backwards so that they could get it into a hog-tie, or I don't know if you guys know what that is.

Cornell:
Q. Yeah, the hog restraint.

[redacted]
A. Right.

Cornell:
Q. That's what they call it.

[redacted]
A. Yeah, and he was, I remember seeing that.

Nemeth:
Q. He was just holding one leg . . .

[redacted]
A. One leg trying to bend it.

Nemeth:
Q. Where was the other leg, do you know?

[redacted]
A. Straight and . . .

Nemeth:
Q. Was anybody holding that down?

[redacted]
A. No.

Nemeth:
Q. Was anybody doing anything else to him at that time?

[redacted]
A. Yeah, they were beating on him.

Nemeth:
Q. With their fists?

[redacted]
A. Everything, yeah. Flashlights. Saw one deputy with a flashlight.

Cornell:
Q. You saw a deputy hitting him with a flashlight?

[redacted]
A. I saw flashlight hit him on the head. I can't . . .

Cornell:
Q. Okay, 'cause you told me before that you . . . that you know that when he got the laceration . . .

[redacted]
A. . . . the laceration had to have come, 'cause I didn't see him get his face kicked or . . . I can't say for sure. I mean. . . it had to have been something kind of like that, 'cause he was bleeding bad.

Cornell:
Q. Okay. What . . . what if when he goes to floor and he lands on the floor on the side of his eye, side of his face, hits the cement floor. It's a cement floor, right?

[redacted]
A. I saw his head hit.

Cornell:
Q. Okay.

[redacted]
A. There was . . .

Cornell:
Q. And you didn't see any blood . . .

[redacted]
A. Uh-Uh. No.

Nemeth:
Q. Did you see a flashlight contact his head on the left side, or are you just summizing that that's what happened?

[redacted]
A. I'm summizing that that's what happened.

Nemeth:
Q. Okay, but you did see a flashlight in a deputy's hand?

[redacted]
A. Yeah.

Nemeth:
Q. Did you describe that deputy to us all ready?

Cornell
Q. Not yet.

[redacted]
A. No.

Nemeth:
Q. Can you describe that deputy to us?

[redacted]
A. Yeah.

Nemeth:
Q. Go ahead, and please do.

[redacted]
A. He had brown hair, short brown hair.

Cornell:
Q. White?

[redacted]
A. Yeah.

Cornell:
Q. Were all these deputies white?

[redacted]
A. Yeah.

Cornell:
Q. Okay.

[redacted]
A. All of them were white.

Cornell:
Q. Short hair, short brown hair.

[redacted]
A. Wait . . . wait . . . one could have been Oriental, I'm not sure. No, they were all white. All right they were all white, but one possibly could have been Oriental.

Cornell:
Q. Okay. The guy with the flashlight, is a male, white, with short brown hair?

[redacted]
A. Yeah.

Cornell:
Q. How old?

[redacted]
A. 35.

Cornell:
Q. All these guys are 35 to you, huh?

[redacted]
A. They all seem the same age to me . . .

Cornell:
Q. How tall?

[redacted]
A. . . . but they're probably younger than that.

Cornell:
Q. How tall, and how much does he weigh?

[redacted]
A. 6 feet, 180 lbs.

Cornell:
Q. Was he pretty well built or . . .

[redacted]
A. Just regular built.

Cornell:
Q. Moustache, glasses?

[redacted]
A. No glasses.

Cornell:
Q. Moustache?

[redacted]
A. I can't remember.

Cornell:
Q. Where did he hit him . . . did you see him hit him with a flashlight?

[redacted]
A. No, I can't say.

Cornell:
Q. You saw the deputy have the flashlight in his hand, is that what you're sayiug?

[redacted]
A. Yeah. Yeah.

Cornell:
Q. But you're not sure if he hit him with it?

[redacted]
A. Uh-uh.

Cornell:
Q. Okay. Then why did you tell me before you thought he got hit in the face with a flashlight?

[redacted]
A. Because that thing looked like a perfect dent from a flashlight.

Cornell:
Q. Do you ever watch boxing?

[redacted]
A. Yeah.

Cornell:
Q. You know how a prize fighter hits another guy with a plastic glove or a leather glove and it cuts his eye?

[redacted]
A. Yeah.

Cornell:
Q. Could it have happened from a fist?

[redacted]
A. Yeah, it could have.

Cornell:
Q. Could it have happened from a boot?

[redacted]
A. Yep.

Cornell:
Q. Could it have happened from a flashlight?

[redacted]
A. Yep.

Cornell:
Q. Could it happen from hitting the floor?

[redacted]
A. I guess, yeah, but . . .

Cornell:
Q. I'm not trying to change your mind, [redacted] what I'm saying is you were there I was not, okay.

[redacted]
A. All right.

Cornell:
Q. But you made the statement before that he hit him with the flashlight and now you're saying, "Well, he may not have," and now you're saying he might have cut it when he hit the floor. When he hit the floor you were standing right there a foot away from him, is what you told me and you're watching this fight.

[redacted]
A. It didn't happen from that.

Cornell:
Q. And you did not see any blood.

[redacted]
A. No.

Cornell:
Q. Could you see the left side of his eye?

[redacted]
A. I saw his whole face.

Cornell:
Q. Okay.

Nemeth:
Q. Let me ask you this, did his head ever hit the ground other than the first time they went down together?

[redacted]
A. No.

Nemeth:
Q. Did you ever see [redacted] head hit the ground and is that why you're saying you doubt that it came from some kind of a fall . . .

[redacted]
A. Yes. Exactly.

Nemeth:
Q. It came from some kind of a contact blow is what you believe . . .

[redacted]
A. Right. Exactly, because what I saw, he was on the ground. He only got forcibly thrown to the. . . and hit the ground one time and there was no . . . there wasn't any head contact and they had each other like this, so that when they landed, you know . . .

Cornell:
Q. (Inaudible) is what you show us.

[redacted]
A. Yeah, that their hits didn't hit the ground because of their shoulders.

Nemeth:
Q. Okay. When they were . . . the two were bear hugging, could you tell who was in control?

[redacted]
A. They were both.

Nemeth:
Q. . . . both struggling.

[redacted]
A. Yeah.

Cornell:
Q. Do you think that either one of them was strong enough to force the other to the floor? In other words . . .

[redacted]
A. They were both . . .

Cornell:
Q. Even matched, huh?

[redacted]
A. Even matched, totally even. It was even.

Cornell:
Q. So they just kind of went to the floor mutually.

[redacted]
A. Mutually.

Cornell:
Q. You don't think one was trying to pull together, or . . .

[redacted]
A. No it just happened, it just . . . that's just what happened.

Cornell:
Q. Down they went.

[redacted]
A. Yep.

Cornell:
Q. The thundering herd of deputies came in and started beating him.

[redacted]
A. Beating him.

Nemeth:
Q. How many deputies did you say came in?

[redacted]
A. Probably about six.

Nemeth:
Q. About six?

[redacted]
A. Yeah.

Nemeth:
Q. And then later more, or . . .

[redacted]
A. More came and Sergeants and some other . . .

Nemeth:
Q. Okay, but I'm just talking about how many initially responded and were involved in this melee?

[redacted]
A. Four out of six people were beating him.

Nemeth:
Q. Okay. Six. No others later came in and beat him later.

[redacted]
A. No.

Nemeth:
Q. It was just the . . . how long did the beating part last?

Cornell:
Q. Hang on a second. A minute ago, beating was my word. Okay.

[redacted]
A. All right.

Cornell:
Q. Did they actually beat this guy or were they just hitting him?

[redacted]
A. No, they beat him. They beat him.

Cornell:
Q. 'Cause I don't want to put words in your mouth.

[redacted]
A. No, they beat him. I'm not lying. No, it's the truth. He was . . . he was done with it and they still were . . .

Cornell:
Q. Did you ever hear them ordering him to stop fighting with the deputies?

[redacted]
A. No. They just kept saying . . . [redacted] kept saying, "I'm dying . . . I'm dying . . .and they go, "You're dead, Mother Fucker, you're dead," and then one of the deputies said, "I'm going to break your finger, there's one, there's two, there's another."

Cornell:
Q. What was the deputy doing when he said that?

[redacted]
A. Stepping on his hand, I think, or something.

Nemeth:
Q. Well, are you just kind of guessing now, or are you going from memory?

[redacted]
A. He was . . . he was . . .

Nemeth:
Q. It was from memory, okay . . .

[redacted]
A. He had his . . . I . . . I . . . he had his foot on his hand, and I also saw him trying to bang his hand against the bars, one of his hands, but it wasn't, he only did that like four or five times.

Cornell:
Q. The deputy tried to bang his hand . . . hand?

[redacted]
A. Hand.

Cornell:
Q. Which hand?

[redacted]
A. Um, I couldn't tell, right or left.

Cornell:
Q. Was [redacted] ever holding onto the bars?

[redacted]
A. No.

Cornell:
Q. You never saw him hold onto the bars?

[redacted]
A. No

Cornell:
Q. And would you have seen that if you were in there?

[redacted]
A. Yeah, I was right there. I was what . . . close as you can possibly be.

Cornell:
Q. Now, you're asking the question. I don't want to cut you off. I'm sorry.

Nemeth:
Q. That's okay.

Cornell:
Q. Do you remember what the question was?

Nemeth:
Q. You told us about how many deputies came in and then you said that . . . I was asking you how long did this exchange, this battle, or whatever you want to call it, beating, use of force, how long did that last, if you were to estimate the time?

[redacted]
A. Oh, I'd say two minutes, but that might be, you know, too long.

Nemeth:
Q. So it was fairly quick. Is it safe to say it went . . .

[redacted]
A. Two minutes. A little under two minutes. Two minutes.

Nemeth:
Q. Two minutes or less?

[redacted]
A. Yeah.

Nemeth:
Q. Okay, and how much after that . . . and after that when he was handcuffed and they were still using force on him so he was punching them after he was handcuffed, is that what you said earlier?

[redacted]
A. Um-hm.

Nemeth:
Q. Okay.

[redacted]
A. He was all ready handcuffed and they were hitting him trying to get him the other part of the hog-tie or whatever.

Nemeth:
Q. Let me . . . let me try to. I don't think I've got a firm grasp on how this whole thing went down yet. The bear hug and struggle went on. They go down together. At this point it's just the two of them.

[redacted]
A. Right.

Nemeth:
Q. Okay. And you see them fall down. Who's on the bottom of the pile? Or is one on top of the other or not?

[redacted]
A. (Inaudible).

Nemeth:
Q. Half and half, they're side by side.

[redacted]
A. Side by side.

Nemeth:
Q. And you see that and you don't see any part of the guy you call [redacted] head hit the concrete, or cause any bleeding?

[redacted]
A. No bleeding. No bleeding.

Cornell:
Q. How about the deputy. Was he . . . did his head hit the concrete?

[redacted]
A. No. No one's head hit the concrete.

Nemeth:
Q. You were watching all that part of it, now seconds after this point did the deputies come in, the other four to six deputies, or how much after this point do you think the . . . ?

[redacted]
A. Fifteen seconds.

Nemeth:
Q. But shortly after they hit the ground . . . fifteen seconds. Okay.

Cornell:
Q. Because you saw it.

[redacted]
A. Yeah.

Nemeth:
Q. Okay, and then you see the arrival of four to six people?

[redacted]
A. Yeah.

Nemeth:
Q. You can identify each one of them by face again, is that right?

[redacted]
A. Yeah, I could.

Nemeth:
Q. How many of those had flashlights? One or more than one?

[redacted]
A. All of them had flashlights.

Nemeth:
Q. All of them had flashlights? How many of them hit your friend, this individual with flashlights?

[redacted]
A. See . . .

Nemeth:
Q. You know?

[redacted]
A. I . . . you asked me that and I said. Okay, I made a mistake. I assumed that . . . I saw a flashlight in the one deputy's hand . . . and I assumed that the gash that was pouring so much blood out came from that, because it was . . . had a round shape.

Nemeth:
Q. Okay.

Cornell:
Q. And so, we don't know exactly how that injury came about.

[redacted]
A. No.

Cornell:
Q. Okay.

Nemeth:
Q. Did you say . . . well, I guess what I'm asking you is . . . did . . . you saw a flashlight in the deputy's hand. Did you see him hit anyone with that with that flashlight?

[redacted]
A. No.

Nemeth:
Q. Okay. You just saw the flashlight in the hand during the ongoing scuffle.

[redacted]
A. I can't . . . I can't recall if he . . .

Nemeth:
Q. All right.

[redacted]
A. . . . came in contact but I figured he did . . .

Nemeth:
Q. Okay.

[redacted]
A. . . . because of the . . .

Cornell:
Q. . . . because of the gash . . .

[redacted]
A. Yeah.

Nemeth:
Q. At what point does he become handcuffed now? You never really clearly articulated that to me.

[redacted]
A. After the . . .

Nemeth:
Q. How many . . .

[redacted]
A. . . . after the . . .

Nemeth:
Q. . . . can you . . . you can say seconds or minutes after the . . .

[redacted]
A. . . . after about one minute.

Nemeth:
Q. One minute into it . . .

[redacted]
A. . . . he was handcuffed.

Nemeth:
Q. . . . he was handcuffed. And then what happens after that?

[redacted]
A. Then they tried . . . they were trying to get his legs.

Nemeth:
Q. Okay, and then you said one person had one leg and was standing up. A deputy was holding . . .

[redacted]
A. Yeah. (Inaudible) his right leg.

Nemeth:
Q. Now, what position was [redacted] in? Face down? Sideways?

[redacted]
A. Yeah, face down. Face down.

Nemeth:
Q. Now he was face down. Okay. And somebody's got his right leg . . .

[redacted]
A. Yeah.

Nemeth:
Q. . . . and he's standing . . .

[redacted]
A. I know he's got the orange hair on his right leg . . .

Nemeth:
Q. And who was saying you're going to die, if you know?

[redacted]
A. He said . . . [redacted] saying, "I'm dying, I'm dying," and he goes, "You're not dead," wait, "you're something dead," wait, "I'm dying," he's going, "You're going to die," or something like that?

Nemeth:
Q. Who's saying you're going to die or something like that?

[redacted]
A. The deputy.

Nemeth:
Q. Which one? The orange haired guy, who's holding the leg?

[redacted]
A. Yeah. Yeah.

Cornell:
Q. Or is it the guy with the short brown hair that said it.

[redacted]
A. No it was the guy with the orange hair that said it.

Nemeth:
Q. Okay, and what's going on with the other leg, it's just dangling and it's loose?

[redacted]
A. Yeah, it's just dangling.

Nemeth:
Q. Okay, do you see anybody kicking him at this point?

[redacted]
A. Yeah, they're all kicking him.

Nemeth:
Q. Was anybody behind him kicking him?

[redacted]
A. I can't tell.

Nemeth:
Q. Or let's say (inaudible).

[redacted]
A. All around him. They were all around him. The were surrounding him, it was killing him.

Cornell:
Q. Okay, when you say kicking, can you describe for me how they kicked him?

[redacted]
A. Like a soccer ball.

Cornell:
Q. Was there any kind of a . . . where the foot was raised up and it was a (bang sound) down like that?

[redacted]
A. Mashing like.

Nemeth:
Q. More like a stomper or mashing or stepping on?

[redacted]
A. No, it was more like a sock . . . like you kicking a football, or soccer ball.

Cornell:
Q. Okay. All right.

Nemeth:
Q. Kind of a wind up and then a delivery and impact with the toe area with a boot or something or whatever.

[redacted]
A. I didn't see anything like . . .

Cornell:
Q. No stomping?

[redacted]
A. No. I didn't see any of that.

Nemeth:
Q. Okay, did you . . . do you remember seeing anybody behind him specifically or just he was surrounded by people?

[redacted]
A. Just surrounded.

Nemeth:
Q. Okay. Do you remember any . . . do you remember what the individual be or any individuals look like that were standing behind him, or next to the guy with the orange hair holding the leg up? Do you remember? Can you remember a specific face of somebody standing there or not?

[redacted]
A. I remember. I can remember the deputies faces, if I had pictures of them.

Nemeth:
Q. Okay, but not as to exactly where they were, except for the [redacted] headed guy, is that right?

[redacted]
A. Yeah, I know where. I can remember where a couple of the guys were exactly and the [redacted] haired guy.

Nemeth:
Q. Okay.

[redacted]
A. The other guys are like a blur. (okay)

Nemeth:
Q. You said something. Somebody was punching [redacted] in the face shortly after the reported . . .

[redacted]
A. Right. The first guy that came on the scene . . .

Nemeth:
Q. Okay.

[redacted]
A. . . . the first guy to get . . .

Nemeth:
Q. Did you describe him to us?

[redacted]
A. Yeah.

Nemeth:
Q. Okay, and he was using a fist?

[redacted]
A. Yeah.

Nemeth:
Q. In both fists or one fist or the other . . .

[redacted]
A. Yeah. He had one hand turning his head so that he could . . .

Nemeth:
Q. Hold it down, or position it or something?

[redacted]
A. Yeah. Just to turn it so he could punch his face.

Nemeth:
Q. Okay, and where was he punching his face, his nose or his chin or his eyes?

[redacted]
A. The side of his face.

Nemeth:
Q. Okay. You're tapping your . . . what would be your right cheek, is that right?

[redacted]
A. Yeah.

Nemeth:
Q. And was he punching with his right hand, on [redacted] right cheek?

[redacted]
A. Yeah.

Nemeth:
Q. Okay, and you didn't see any blood resulting from those blows?

[redacted]
A. No, not even. They were weak blows.

Nemeth:
Q. You say they were fairly weak blows.

[redacted]
A. Yeah.

Nemeth:
Q. You didn't notice any major injuries from that?

[redacted]
A. No, because he was reaching over and he couldn't possibly swing like that.

Nemeth:
Q. What was he reaching over?

[redacted]
A. Orlin and [redacted] to get to [redacted]

Nemeth:
Q. Oh, 'cause they were still taken up.

[redacted]
A. Yeah. Yeah.

Nemeth:
Q. So [redacted] was still holding onto the deputy at that time, is that right?

[redacted]
A. Yeah.

Nemeth:
Q. And . . . and how did he come to release the deputy?

[redacted]
A. Um, just they got pulled apart.

Nemeth:
Q. Just got pulled apart?

[redacted]
A. Yeah.

Nemeth:
Q. What happened to that Orlin or the deputy that was being held down or, I guess it's Orlin?

[redacted]
A. He just went . . .

Nemeth:
Q. What does he do during the scuffle or . . .?

[redacted]
A. He just squirmed out, and that's all I remember.

Nemeth:
Q. You didn't see him sneak in doing anything?

[redacted]
A. I don't remember seeing him again. Nope. I don't remember seeing him again.

Cornell:
Q. So all the force that you saw was used by the other deputies and not Orlin, other than the grabbing and the going around . . .

[redacted]
A. Right.

Cornell:
Q. That's all Orlin did?

[redacted]
A. Yeah.

Cornell:
Q. Did you know whether Orlin helped in handcuffing him?

[redacted]
A. No.

Cornell:
Q. You did not or you don't know?

[redacted]
A. I don't know.

Nemeth:
Q. Okay, let me ask you this. Why did you say earlier on, you said, "Orlin opened the Baker gate and called somebody to come up and then he didn't want to come up. Why didn't he just come up, do you know?

[redacted]
A. 'Cause he's kind of dingy.

Nemeth:
Q. 'Cause . . . cause . . .

[redacted]
A. [redacted]

Nemeth:
Q. . . . [redacted] kind of dingy. Was the deputy saying anything that made him afraid to come forward or not?

[redacted]
A. No.

Nemeth:
Q. No. He was just saying come here and he's kind of dingy and he's not coming up.

[redacted]
A. Yeah, come on up.

Nemeth:
Q. Okay.

Cornell:
Q. Did you ever see [redacted] push a broom?

[redacted]
A. Yeah.

Cornell:
Q. You did?

[redacted]
A. Yeah.

Cornell:
Q. He was sweeping the row?

[redacted]
A. Yeah. He was pretending like he was doing something.

Nemeth:
Q. Just give him something to do so he kind of blends in a little more?

[redacted]
A. Yeah.

Nemeth:
Q. Okay. Do you know [redacted] wife?

[redacted]
A. I talk to her on the phone.

Nemeth:
Q. Why was that?

[redacted]
A. 'Cause one of the Black guys in my cell wanted me to talk to her and I told her what I told you.

Nemeth:
Q. Did [redacted] ask you to call her or. . .?

[redacted]
A. No.

Nemeth:
Q. How did you obtain . . .?

[redacted]
A. I don't know. They just . . .

Nemeth:
Q. Did they hand you the phone number?

[redacted]
A. No, I didn't call. He just handed me the phone and said, "Oh, this is . . ."

Nemeth:
Q. He said talk to her?

[redacted]
A. Yeah.

Cornell:
Q. Describe for us how that went down, how the phone call went. I mean, how it came about that somebody told you that, "Here call her." Was it . . .

[redacted]
A. Can I . . . can I have some water?

Cornell:
Q. Was it after the incident?

[redacted]
A. Um, yeah, this is after.

Nemeth:
Q. Yeah, we'll take a break at 0216,

Nemeth:
Q. Okay, we're back on tape. The time is 0220 hours. The thing we were talking about before we got off tape was what? What were you saying?

[redacted]
A. I was laying down on my bed and the Black guy, I don't know his name, that sleeps under me . . .

Cornell:
Q. Is it the old guy?

[redacted]
A. No.

Cornell:
Q. The old guy. The guy that was about 60 in there, wasn't there or not?

[redacted]
A. Yeah, there is a guy. He's leaving though.

Cornell:
Q. Is he white?

Nemeth:
Q. 68 or something like that.

[redacted]
A. He's a Black guy.

Cornell:
Q. He's a Black guy, okay. All right.

[redacted]
A. But . . .

Nemeth:
Q. Now, so anyway you're in a bunk and one of the other guys calls on the phone to [redacted] wife.

[redacted]
A. Yeah.

Nemeth:
Q. . . . and he wakes you up and says, "Hey, come here, tell her what happened."

[redacted]
A. Yeah. Yeah.

Nemeth:
Q. Is that what he said?

[redacted]
A. Yeah. No. "She wants to talk to you." So I got on the phone, "Hello," She said, "Oh, yeah, what did they do, what happened, what did, you know, what did you see," and I told her pretty much a brief summary, and she said . . . she asked me my name and my booking number and said, "Maybe, you know, you know."

Nemeth:
Q. Tell me, maybe what?

[redacted]
A. "Maybe someone's going to talk to you, I don't know," something like that.

Nemeth:
Q. Did she say what she had in mind exactly.

[redacted]
A. No.

Nemeth:
Q. Did she say she's goiug to get a lawyer or something like that?

[redacted]
A. I mean I . . .

Nemeth:
Q. You assumed she was talking about that . . .

[redacted]
A. Yeah. Yeah.

Nemeth:
Q. But she never said nothing.

[redacted]
A. No never said nothing.

Cornell:
Q. How did she seem when you told her this?

[redacted]
A. She seemed concerned but not . . . I mean I asked her did you talk to him, and she said, "Yeah, but they won't let me see him." That's what she said.

Cornell:
Q. Did she tell you any kind of injuries that he all ready had.

[redacted]
A. I asked her if his hand . . . if his fingers were broken and she couldn't tell me because I remember the deputies saying, you know, that they were going to break them, and I asked her that, but she didn't say any of his fingers were broken.

Cornell:
Q. So do you know what kind of injuries he sustained rather than the eye . . .

[redacted]
A. She said that he couldn't move and that he was all cut up and that's . . . that's what I asked her, I go, "Did you talk to him." She said, "Yeah, but only once and now I try to see him but they won't let me."

Cornell:
Q. And when was that?

[redacted]
A. That was yesterday.

Cornell:
Q. Yesterday?

[redacted]
A. Um-hm.

Nemeth:
Q. Friday?

[redacted]
A. Okay. Wait now, it was Thursday.

Cornell:
Q. Because the incident happened Thursday morning.

[redacted]
A. Yeah. It was Thursday.

Cornell:
Q. So it was the same day as the incident?

[redacted]
A. Yeah, but it seems like the next day, because . . .

Nemeth:
Q. Right. Right.

[redacted]
A. Right now, it seems like the next day

Nemeth:
Q. You're saying it's the early morning.

[redacted]
A. Right. Yeah. Yeah.

Nemeth:
Q. Did this happen real early in the morning or late, late at night?

[redacted]
A. Late at night.

Nemeth:
Q. When . . . after . . . now let me think where we left off. Somebody was holding the leg and at some point then he got his legs together and rolled them up and he described hog-tying him, or applying a hobble restraint. Did anybody hit him or strike him after that was done?

[redacted]
A. After his hog . . . after his hog-tying?

Nemeth:
Q. Uh-huh.

[redacted]
A. They pretty much were finished.

Nemeth:
Q. Left him alone? Nobody else struck him?

[redacted]
A. No. They just . . .

Cornell:
Q. Okay, and while we're on that note, do you think the reason, 'cause you had said before when they were in the process of hog-tying him that they continued to hit him and . . . and was he . . . was he resisting them when they were trying to put the hog-tie on him?

[redacted]
A. Not that I can see.

Cornell:
Q. Okay. Was he . . .

[redacted]
A. There's no way he could have been resisting.

Cornell:
Q. Well, what I mean by that was . . . was he voluntarily putting his legs up or was he holding one stiff or was he not complying with them?

[redacted]
A. No. He wasn't doing anything. He was just . . . he was just neutral. He was handcuffed and just screaming, "Lord."

Cornell:
Q. Was he handcuffed in front?

[redacted]
A. No, in back.

Cornell:
Q. In back. And he had one leg put the hobble on. Hit him during this time?

[redacted]
A. Yeah, they were hitting him.

Cornell:
Q. Grabbed the other leg, hobbled it and how did they. . .

[redacted]
A. And then they just let him go.

Nemeth:
Q. In fact, he said he was surrounded and was being also kicked during that time, is that right?

[redacted]
A. Yeah. Yeah.

Nemeth:
Q. So after he's hobbled, nobody else touched him?

[redacted]
A. No.

Nemeth:
Q. Okay, how long after he's hobbled and nobody else was touching him did the sergeant show up or (inaudible).

[redacted]
A. A good minute.

Nemeth:
Q. A minute later?

[redacted]
A. Yeah.

Nemeth:
Q. Okay.

[redacted]
A. And then he was blown away by just . . . it was such a scene. His face was a whole bright red.

Nemeth:
Q. Who was?

[redacted]
A. [redacted] eyes was . . .

Cornell:
Q. Who was blown away?

[redacted]
A. The Sergeant just had this look on his face, "What the fuck," and then I saw the deputies kind of just, you know, like trying to tell him what happened.

Cornell:
Q. Did you hear any of the deputies tell the sergeant?

[redacted]
A. I saw. . . I saw Deputy Orlin in the control booth making motions like what had happened.

Cornell:
Q. But you didn't hear him.

[redacted]
A. I didn't hear him.

Nemeth:
Q. 'Cause they discussed it in the control booth, is that what you're saying.

[redacted]
A. Yeah, they were in and out, they were all over.

Nemeth:
Q. All right.

Cornell:
Q. Did you ever hear [redacted] tell him about what happened to him?

[redacted]
A. Yeah.

Cornell:
Q. And what did he tell him?

[redacted]
A. He said that some inmates beat him up.

Cornell:
Q. He told who that?

[redacted]
A. The . . . everyone that was there. He just said, "Some inmates did this to me, some inmates did this."

Nemeth:
Q. Did he say gang members or do you remember?

[redacted]
A. No. I don't . . . I think I remember he said they, "Cell 2."

Nemeth:
Q. Was that inmates?

[redacted]
A. No.

Cornell:
Q. Who was that?

Nemeth:
Q. It was what he just told us, right?

[redacted]
A. Yeah.

Nemeth:
Q. Do you know why he would say something like that?

[redacted]
A. Just . . . I think he said that because he didn't want them to press charges or something. I can't . . . I can imagine him saying that for that reason, and that's it. I would do the same thing.

Nemeth:
Q. For . . . why would you do it?

[redacted]
A. Well, because I wouldn't want them to . . . I don't know, I mean, well if I swung on them, then and then they hit me and then I wonld say, you know, I'd try to get out of it so that I wouldn't get a charge, you know.

Nemeth:
Q. Did you ever see [redacted] swing at any of these deputies?

[redacted]
A. Not really swing.

Nemeth:
Q. What . . . what did you see him do?

[redacted]
A. No, he just flipped around, because he's real sketchy and once the hand touched him, he just spun and that it was his (inaudible).

Nemeth:
Q. Yeah, and so you're talking more like a wrestling hold, these bear hugs and (inaudible).

[redacted]
A. Yeah.

Nemeth:
Q. Did you ever see him punch any deputy?

[redacted]
A. Never. Never.

Nemeth:
Q. Did he kick any deputy?

[redacted]
A. Never. Never. Never.

Nemeth:
Q. When he was laying on the ground, was he like struggling his arms and kicking the deputies.

[redacted]
A. No, he was just trying to comply.

Nemeth:
Q. What makes you say he was trying to comply?

[redacted]
A. Because he just kept saying, I'm sorry. I'm sorry. I'm . . . okay, okay, you know . . .

Nemeth:
Q. Those type of things?

[redacted]
A. Yeah.

Nemeth:
Q. Which gave you the impression he was trying to surrender?

[redacted]
A. Yeah. Surrendering the whole time.

Nemeth:
Q. Okay. Did anybody ever talk to you about this besides us?

[redacted]
A. Just my cell mates.

Nemeth:
Q. I mean any member of the Sheriff's Department ever question you?

[redacted]
A. Yeah. They came.

Nemeth:
Q. Who. (Inaudible).

[redacted]
A. I don't know their names, but I remember . . .

Nemeth:
Q. Was it a sergeant or deputies or . . .

[redacted]
A. No just two regular deputies.

Nemeth:
Q. What did they do?

[redacted]
A. They came in and asked who was in the cell, and they took everyone's name down and then they said, "Who was the one guy that was out of the cell." I said, "It was me," and he came and said, "Show me your wristband," and he wrote my name down.

Nemeth:
Q. And did they ask you what happened?

[redacted]
A. Um-hm.

Nemeth:
Q. And what did you say?

[redacted]
A. I just told them up to the point of when . . . why [redacted] I told them the whole story until [redacted] got touched by Orlin in the back and spun around and that was it. I stopped right there and that's all they wanted to know.

Nemeth:
Q. Did you offer to tell them what you're telling us?

[redacted]
A. No.

Nemeth:
Q. Why not?

[redacted]
A. I don't know.

Nemeth:
Q. Were you afraid, or just didn't feel like (inaudible).

[redacted]
A. Well, I just . . . they didn't ask. After I told them that, they just didn't seem that interested.

Nemeth:
Q. So let me make sure I understand what it is you told them. You told them about the fact that he opened the gate, and [redacted] came out and was on the row and that the guy came out and tried to get him . . . Orlin came out of the booth area and tried to get him to come forward. He did and then he called for another deputy to come in and relieve him and then he did then come out and he put him on the wall and that [redacted] spun around and they held each other in bear hugs and then they dropped to the floor and then is that where you stopped or where did you stop?

[redacted]
A. That's where I stopped.

Nemeth:
Q. You didn't tell them anything about what . . . what events took place after the other deputies arrived?

[redacted]
A. No. No. And that's . . . that's one thing that the one Black guy said, "You didn't say nothing to them about that." I said, "They didn't ask."

Nemeth:
Q. You didn't want to press it then, or what?

[redacted]
A. No, because, they were . . . they left and I . . . but he said, the Black guy said, "Oh, I knew, you were going to do that, you know."

Nemeth:
Q. Who said that? One of the Black cell mates . . . one of your Black cell mates?

[redacted]
A. Yeah. And then he goes, I told them, and I go, "I'm going to tell them the truth if they come and ask me. I'm going to tell them exactly what happened," and he said, "You know, you better," and you know, "I will, man." I have nothing to gain and nothing to lose.

Nemeth:
Q. All right.

[redacted]
A. I'm not going to get anything out of it and neither is . . .

Nemeth:
Q. Okay. Let me just tell you this real quickly. Has anybody tried to influence what you're telling us right now, as if they told you what to say, one way or the other?

[redacted]
A. No.

Nemeth:
Q. Have deputies told you, "Don't talk to anybody," or threatened you in anyway.

[redacted]
A. No.

Nemeth:
Q. No. Okay. I'm going to give you a business card before we leave. If somebody does anything like that, you call me, all right, right away and we'll . . . this number, unfortunately, is only good during the daytime hours, business hours, but if somebody does something to you and you can't get to a phone, give this card to a supervisor here at this jail, okay. A senior deputy or better, a sergeant would be better and tell him, "Look, call this investigator, because he told me to call somebody, if anybody threatens me, any deputies threaten me," specifically deputies, is what I'm thinking of, okay, 'cause I don't want to have

anything, you know, have you subject to any problem. This tape is going to run out in a second but I'm trying. Nope, I'm not going to in time . . . .

(end Side B, Tape 1–start Side A, Tape 2)

Nemeth:
Q. Okay, we're on Tape 2, Side A of our interview with [redacted] The time is 0230. [redacted] the other question I was gonna ask you is, what did your Black cellmates tell you they saw, if anything, of what happen?

[redacted]
A. They didn't say anything.

Nemeth:
Q. And did they tell you why they didn't say anything, I mean were, they were asleep, or what?

[redacted]
A. They were in their cell, they were, you cou–, you can't see from there.

Nemeth:
Q. Can't see from where they were?

[redacted]
A. Yeah.

Nemeth:
Q. Did they hear anything? (yeah) Did they tell you they heard the clicking of the door and the people coming?

[redacted]
A. Not exactly those words but they heard the commotion and then I told them what happen.

Cornell:
Q. If he would have been in the cell, would you have been able to see all this stuff?

[redacted]
A. No, I wouldn't have seen nothin'.

Cornell:
Q. Is any inmate that's on that row, or anywhere else, could they have seen what happen?

[redacted]
A. No, no way, they can't.

Cornell:
Q. Why?

[redacted]
A. Because the, the bars, they can only look so far.

Cornell:
Q. 'Cause of the angle of the (yeah) bars and stuff?

[redacted]
A. Yeah.

Nemeth:
Q. And because this then took place out towards (inaudible).

[redacted]
A. Yeah. Well I'm the only one that saw it, (right) I'm the only one.

Cornell:
Q. Did you share all this information with your cellmates?

[redacted]
A. Uh-huh.

Cornell:
Q. You told them all what you saw?

[redacted]
A. Uh-huh.

Cornell:
Q. So, if we go and interview them, they're gonna tell us what you told them?

[redacted]
A. Yeah, (basically) pretty much. Yeah, they should. I mean, (okay, let me) I didn't tell them the exact and in-depth, like you guys got out of me.

Cornell:
Q. Let me ask you this, are you on any kind of medication right now?

[redacted]
A. No, none.

Cornell:
Q. Are you being seen by the psychiatrist?

[redacted]
A. No.

Cornell:
Q. There's no mental problems that you have in your past or anything?

[redacted]
A. No, no. (okay)

Cornell:
Q. If, if somebody told us that they saw [redacted] face down on the floor and that they saw that one of the deputies spread his legs apart and kick him in the groin, would that be a true statement to what you saw?

[redacted]
A. Yeah. (okay)

Cornell:
Q. Did you see a deputy do that?

[redacted]
A. No, but, I mean, they have done out, I mean, if you're asking me if that was possible, is that what you're asking me?

Cornell:
Q. Well it's possible he could have died of a heart attack. I'm asking you if if somebody gave me that statement, do you think it would be true? Could, could it have happen that way because of the way the deputies were around him?

[redacted]
A. Yes. (okay)

Cornell:
Q. Do you, did you ever see anybody kick him in the groin as you can remember, as you sit here now?

[redacted]
A. No, I can't say that I . . .

Cornell:
Q. Were the deputies in such a position where they could have kicked (yes) him in the groin?

[redacted]
A. Yes, definitely.

Cornell:
Q. They were?

[redacted]
A. Definitely.

Cornell:
Q. Do you know whether or not he *was* kicked in the groin?

[redacted]
A. He, he could have been because the way they had him.

Cornell:
Q. But you don't know for sure?

[redacted]
A. No.

Cornell:
Q. Based on all the angles of everybody, where he was laying, at one point was he on his stomach?

[redacted]
A. Yeah.

Cornell:
Q. And, and do you know for how long he was on his stomach?

[redacted]
A. For a minute.

Cornell:
Q. 'Cause you said he had rolled up on his side in a fetal position.

[redacted]
A. Yeah, that was after he was hog tied. (okay)

Cornell:
Q. When he was handcuffed, what position was he in?

[redacted]
A. He was on his stomach.

Cornell:
Q. He was?

[redacted]
A. Yeah. (okay) And they had his leg.

Cornell:
Q. And that's the time that they were trying to put the, the rope it over, the restraint on his legs, right?

[redacted]
A. Right. (okay)

Cornell:
Q. And do you think inside that point that he could have been kicked in the groin?

[redacted]
A. Yeah.

Cornell:
Q. Were they kicking him at that point?

[redacted]
A. Yeah. (okay)

Nemeth:
Q. Did you ever hear him screaming about being kicked in the nuts, I mean, or anything like that?

[redacted]
A. No. He just said he was dying, he's dying and then he said that the inmate, he kept on and rambling about how the inmates did it to him.

Nemeth:
Q. That was when he was talking to the sergeant?

[redacted]
A. Yeah.

Nemeth:
Q. But I mean during the, during the actual blows being struck, did you hear him crying out for pain of being kicked in the nuts or anything like that? No?

[redacted]
A. No. (okay)

Nemeth:
Q. Is there anything else that we've asked you, or have failed to ask you about this incident that you feel is important, you wanna share with us? Anything we may have forgotten in that, that has to do with this incident?

[redacted]
A. No, well, no, everything . . .

Cornell:
Q. Could this incident have been avoided with [redacted] or just walked up and put his hands up on the wall like everybody asked him to?

[redacted]
A. Oh, yeah, exactly.

Cornell:
Q. And do you think that, that [redacted] facilitated the incident?

[redacted]
A. Yeah, he, he started it, exactly, but (uh-huh), but he as sure as hell didn't finish it, I mean.

Cornell:
Q. Do you think that he, that he . . .

[redacted]
A. He started the confrontation because if once you do that it's, it's a given in this place.

Cornell:
Q. So is it pretty well understood that if you fight with the deputies, you're gonna get hurt?

[redacted]
A. Yeah, yeah.

Cornell:
Q. And you think he knew that?

[redacted]
A. No, because, no, because he's not all there. (uh-huh)

Cornell:
Q. Do you think that the force that you saw the deputies use against [redacted] was excessive?

[redacted]
A. Yes.

Cornell:
Q. The force?

[redacted]
A. Definitely. (okay) They didn't need to do all that, they could have just, you know, just held him and hog tied him and didn't even hit him once and they would have got him down. With *how* many they had? Easily. They never had to strike him like that and leave him in a pool of blood, no way. (okay)

Cornell:
Q. Well you know that, you've been around the system and you've been in prison before and you've been in jail before, you know that someone who has a head cut, they're gonna blood a lot.

[redacted]
A. Yeah. (okay)

Cornell:
Q. Or maybe more so than anywhere else on your body simply because of the way the skin is stretched tightly with the skull and things of that nature and like reasons. Any other piece of information that, that you have that we need to know? Anything else about this thing that we didn't ask you?

[redacted]
A. No. Not that I can recall.

Cornell:
Q. If we could have provide you with, you know what a "mug" run is?

[redacted]
A. Yeah.

Cornell:
Q. Six pictures in a folder that have different pictures in 'em, some may be the guys, some may not. If we were to provide you with those, would you think if the deputies' photographs were in those you would pick 'em out?

[redacted]
A. Yeah, definitely. (Nemeth: Okay . . .)

Cornell:
Q. And you'd be willing, you'd be willing to do that, with us?

[redacted]
A. Yeah. (okay)

Nemeth:
Q. Remember what I said about, about call me if something happens, okay, I don't expect anything to, but even if, even if somebody just talks, say, "Hey, who was talking to you?" Or, "What were you

talking about?" Or something like that, I mean now, don't talk about any of this, any . . .

[redacted]
A. Anybody?

Nemeth:
Q. Well, other, any deputies, (alright) especially what I'm concerned about. Specially the deputies that you saw were, that were involved, okay? Follow me?

[redacted]
A. Yeah.

Nemeth:
Q. I would encourage you not to even discuss it with your inmates, friends, or anybody. If that was you I would just keep my mouth *shut* about this whole thing (alright) unless I'm talking to you or my partner or somebody from the Sheriff's Department, an official; not a deputy working the floor or something like that, you follow what I'm saying to you?

[redacted]
A. Yeah, yeah.

Cornell:
Q. You don't need to share this information with anyone else.

[redacted]
A. Alright. (okay)

Cornell:
Q. We, we're the ones that are handling this investigation (all right) and it's not necessary for you to go up and slap hands and, you know, that kind of stuff with the "homies" and tell everybody, (inaudible) . . .

[redacted]
A. (inaudible)

Cornell:
Q. Don't do that because that, that's just, you don't need that attention, okay?

[redacted]
A. I won't. (okay) I don't want it.

Nemeth:
Q. Okay. Anything else?

[redacted]
A. No. (okay)

Nemeth:
Q. I'll end the tape at 0238 hrs.

I/M [redacted]

I.C.I.B. INTERVIEW 12-27-94

WITNESS INTERVIEW

CASE NUMBER 494-00023-2300-444

RICHARD [redacted]

Hamilton
Q. Okay, today's date is December 27, 1994. It's approximately 1126 hours. I'm here at Men's Central Jail in the nurses' conference room on the 7000 floor. I'm going to be interviewing inmate, tell me your true name.

[redacted]
A. [redacted]

Hamilton
Q. How do you spell your last name?

[redacted]
A. [redacted].

Hamilton
Q. Okay, and he's booked under number [redacted]. We're going to be discussing an incident that occurred October 27, 1994, here at Men's Central Jail in module 4400. It was an altercation involving a deputy and an inmate. This case is being investigated under ICIB file number 494-00023-2300-444. I'm Sergeant Eric Hamilton from ICIB. Okay, Mr. [redacted], were you present in module 4400 on that date in questions, October 27th of this year?

[redacted]
A. Yes, I was.

Hamilton
Q. Okay. What were you doing on that date?

[redacted]
A. Cleaning up the trustee, early morning trustee.

Hamilton
Q. Okay. You were the early morning trustee. Did you get a chance to witness an incident involving a deputy and an inmate?

[redacted]

A. Yes, I was, yes I did. Bits and, and pieces of it.

Hamilton

Q. Okay. Can you tell me about it?

[redacted]

A. Well, yeah. I was cleaning up the tier, it was late at night about 12, 12 something, I guess. Nobody was supposed to be on the tier. Some guy was hanging out on the tier, irritating the officer. The officer came out. I was on the tier in Denver row, cleaning up. Had him on the wall. There was an altercation. I didn't see the verbal, the verbal altercation. I don't know if the officers pushed him or he was pushing back, but next thing you know there was a fist fight going on.

Hamilton

Q. Okay.

[redacted]

A. Nobody around, but the officer and the inmate, and they were sluggin' it up. It was a pretty even fight.

Hamilton

Q. Okay.

[redacted]

A. And we was watching the fight in case nobody (inaudible). I couldn't, I couldn't honestly tell you what would happen if one got the better one, who, what I would have done at that time.

Hamilton

Q. Okay.

[redacted]

A. You know. But I know if officer got the better of the other, I wouldn't have done nothing, you know, 'cause that's the rules.

Hamilton

Q. Okay.

[redacted]

A. You know. But the other guy, it was a pretty even fight. One

dude, in fact it was, I don't know why he was fighting, because we, everybody around here knows, you know, you don't touch a sheriff, you know.

Hamilton
Q. Okay.

[redacted]
A. The next thing you know, the door slams open from the front and a whole bunch of deputies rush in and they wrestle him to the ground.

Hamilton
Q. Okay.

[redacted]
A. I'm standing on the tier.

Hamilton
Q. Okay.

[redacted]
A. I turn around to walk away 'cause they're yelling and screaming at me to get away while they're beating him up on the ground. Well, you know, not major. Nothing too major at the moment.

Hamilton
Q. Okay.

[redacted]
A. I spinned. Now I know there's dude in the shower down there where he can see everything, you know. I spin. I get down to the end of the tier and there's yelling and movement, and I look down the end of the tier and I hear kicking.

Hamilton
Q. Okay.

[redacted]
A. I can't say who it was. Can't say nothing, but somebody's kicking. I couldn't put a face to the boot, no.

Hamilton
Q. Okay.

[redacted]
A. And it all got quiet. I came back down. I was sitting down on the tier for awhile. I came back down the end of the tier and stood there. Now it should be noted at this time, there was nobody else around. Just me.

Hamilton
Q. Okay.

[redacted]
A. And that dude in the shower.

Hamilton
Q. Okay.

[redacted]
A. And I noticed the dude was laying on the floor. I couldn't tell if his feet were tied or not, but he was in an odd angle. He was bleeding bad. And I thought it was over because it was quiet, but I didn't know, and they were still on him. They were still on him. I got yelled at by an officer to leave the premises.

Hamilton
Q. Okay.

[redacted]
A. And I left the premises, again.

Hamilton
Q. Okay. And then what happened?

[redacted]
A. I heard some more noise on down the end of the tier and I, all I could see at the end of the tier, if you been down Denver row, you can look down the to end of the tier, there's about this much of the body. Sheriffs' bodies only. And they were in motion.

Hamilton
Q. Okay.

[redacted]

A. And I heard the dude screaming and yelling, you know. And then I waited to it get quiet again. When I knew they were through, came back down the tier. They were gone and I had to clean up the mess on the floor.

Hamilton

Q. Okay.

[redacted]

A. And it was bloody.

Hamilton

Q. Okay. Anything else? Okay. Alright, that was just a very quick version. Now let's, let's break it down. Okay, you said that you were the trustie on that particular day, correct?

[redacted]

A. Yes, I had just gotten the job.

Hamilton

Q. Okay, you...

[redacted]

A. And got fired that night, too.

Hamilton

Q. Okay. Well that's not what we're asking about. We're asking about, you were trustie in the dorm, correct?

[redacted]

A. Yes.

Hamilton

Q. Okay, you were the early morning's or p.m.'s or day's?

[redacted]

A. Early mornings. Just gotten the job that day.

Hamilton

Q. Okay. Okay, you mentioned that you were on a tier. What tier was that?

[redacted]
A. Denver.

Hamilton
Q. Okay.

[redacted]
A. The incident occurred at the bottom of Denver row.

Hamilton
Q. Okay, let's start from the beginning. You say you were up on Denver row, doing what?

[redacted]
A. Sweeping.

Hamilton
Q. Okay. And then you said that there was some guy below?

[redacted]
A. Yes, he was a man in the Baker row shower.

Hamilton
Q. Okay, no. I'm talking about there was an inmate.

[redacted]
A. Yes, down in Baker row...

Hamilton
Q. Okay.

[redacted]
A. ...flat against the wall. You know how you (inaudible) trying to hide against the wall.

Hamilton
Q. Okay.

[redacted]
A. And he's, I guess the dude was a ding. I think he was mentally unstable.

Hamilton
Q. Why do you say that?

[redacted]
A. Because he wasn't listening. He's the only one at that time of night. Nobody's listening, you know. A normal person listens. Tell him go up look in the booth and say, hey, what's going on, what, what, what, you know. He wasn't listening.

Hamilton
Q. Okay, you said he wasn't listening to what?

[redacted]
A. To the officer telling him repeatedly to get in his house or, "Show up, come up here," or something. He was yelling, ahhh, you can't really hear those speakers too well.

Hamilton
Q. Okay.

[redacted]
A. They should do something about those speakers. You cannot hear.

Hamilton
Q. Okay, so what I'm asking you is, do you know if the officer was giving him directions?

[redacted]
A. Yes.

Hamilton
Q. Okay. Do you know what those directions were?

[redacted]
A. Nope. You can't hear.

Hamilton
Q. Okay, so you, you, you don't know if he was telling him to get into his cell?

[redacted]
A. More than likely, yes.

Hamilton
Q. Okay, more than likely, but you don't know.

[redacted]
A. I'm not 100 percent positive. It was, "Get in, get in the cell or come up here or get in the shower."

Hamilton
Q. Okay.

[redacted]
A. Or names. They call him names. It was one of the three or four.

Hamilton
Q. Okay. What did the inmate look like?

[redacted]
A. He was black, mid-size. About the size of the officer. A little healthier.

Hamilton
Q. Okay. What is, what size is that? How tall was he?

[redacted]
A. Let me give a guess, about 5'10", 5'11".

Hamilton
Q. Okay. How much did you say he weighed?

[redacted]
A. The inmate? I couldn't really guess. But the, between the officer and him, it was a pretty fair match-up.

Hamilton
Q. Well what...

[redacted]
A. 'Cause the fight was good.

Hamilton
Q. Okay, but I'm not asking about that right now. What I'm asking you about is how much did the guy weigh?

[redacted]
A. I couldn't I, I...

Hamilton
Q. Was he my size? Was he bigger?

[redacted]
A. He was little healthier. He was a little healthier, yeah.

Hamilton
Q. Okay. Do you know what kind of hair he had? Was it long, short...

[redacted]
A. It was a, it was a 'fro, mid-size, about this.

Hamilton
Q. Okay. Mid-size. Do you know if he had a beard, moustache, or...

[redacted]
A. I couldn't tell you that at the moment.

Hamilton
Q. Was he wearing glasses?

[redacted]
A. It was too fast. No, I didn't see no glasses.

Hamilton
Q. Okay, what...

[redacted]
A. It was too fast.

Hamilton
Q. Okay. You what color uniform he was wearing?

[redacted]
A. Whatever uniform he was wearing at the time.

Hamilton
Q. You don't know.

[redacted]
A. See there's, there's orange and blue, blue and orange.

Hamilton
Q. Okay, what I was asking is, do you know?

[redacted]
A. I think it was all blue, yes.

Hamilton
Q. Okay. And did you see this guy, the deputy talk to this inmate? Did you actually see the...

[redacted]
A. Yes.

Hamilton
Q. ...guy walk up to the row gate or did the deputy walk down to him...

[redacted]
A. I...

Hamilton
Q. ...or...

[redacted]
A. When I noticed the altercation, they were down the tier and I was sweeping. 'Cause you hear that stuff all the time.

Hamilton
Q. Right.

[redacted]
A. And I'm down on the tier sweeping. And then the next thing you know, the deputy's out of the booth and had him on the wall.

Hamilton
Q. Okay.

[redacted]
A. And I, I'd, you know...

Hamilton
Q. Let's stop right...

[redacted]
A. ...the fight...

Hamilton
Q. ...there. Okay, now you said that you were down the tier. Where were you when you heard the deputies talking to this inmate?

[redacted]
A. Well, I'd been up and down the tier two or three times. He was yelling at him for awhile.

Hamilton
Q. Okay. But once they finally made contact with each other, when you first knew...

[redacted]
A. I was standing by the shower day room area...

Hamilton
Q. Okay. On...

[redacted]
A. ...on the Denver row.

Hamilton
Q. Okay. So, that's upstairs?

[redacted]
A. Right there.

Hamilton
Q. Okay. And you saw or you heard the deputies talking to him.

[redacted]
A. I saw.

Hamilton
Q. Okay. What'd you see?

[redacted]
A. I seen him have, he come out and put the guy up on the wall, the dude's hands are on the wall, and was just standing around here...

Hamilton
Q. Okay, and what, what...

[redacted]
A. ...and he was talking to him and he's saying something.

Hamilton
Q. Okay.

[redacted]
A. You know, I'm not really paying too much attention at the time.

Hamilton
Q. So you actually, you saw the deputy, and the inmate had his hand up on the wall?

[redacted]
A. Right, the inmate had his hands on the wall. The deputy was behind him. You know how they put their legs between, their leg between your legs and they lean on your back and tell you and talk to you in your ear, you know, how they do that.

Hamilton
Q. Okay, so what position was the dep-, the inmate in?

[redacted]
A. He had his hands on the wall.

Hamilton
Q. Okay, were, were his feet together, apart, or...

[redacted]
A. They were apart. I guess the officer was trying to get him to spread his legs and was talking to him, "What the hell you doin' on my tier? When I yell at you," you know. I can, I can, I can only guess at that point.

Hamilton
Q. Okay, let's, okay, let's back, let's get this story together. Now you said that the, the inmate had his hands up on the wall and the officer is trying to get his legs spread?

[redacted]
A. I, I'm guessing that's what it was. I'm, when I seen them, here's, the position was, the man was on the wall with his hands up...

Hamilton
Q. Okay.

[redacted]
A. ...and the officer was behind him, had him, and was leaning up to his head and was talking to him.

Hamilton
Q. Okay, what wall was that on?

[redacted]
A. That was, if I walked off of D row, if I'm standing in the booth door, looking out the front door, the A Gate, the 1 Gate, it'd be my right-hand wall. The laundry room wall door.

Hamilton
Q. Okay. And you were standing where?

[redacted]
A. On the Denver row gate.

Hamilton
Q. You...

[redacted]
A. Right, you know where Denver row is, the steps?

Hamilton
Q. Yeah.

[redacted]
A. And there's the shower and a day room area, right there. I was standing right there.

Hamilton
Q. Okay. On the gate. Because earlier you'd mentioned that you were standing at the shower.

[redacted]
A. Well that's what I'm saying. It's the same difference. What's between the shower and the gate.

Hamilton
Q. Okay.

[redacted]
A. Nothing.

Hamilton
Q. So you're, well there's things that's between the shower, I don't know if you were up the stairs...

[redacted]
A. I was up the stairs.

Hamilton
Q. Okay, up the stairs toward, towards the...

[redacted]
A. Gate...

Hamilton
Q. ...shower gate? Or were...

[redacted]
A. Yes.

Hamilton
Q. ...you down the stairs toward...

[redacted]
A. By the front gate.

Hamilton
Q. ...the gate row?

[redacted]
A. I was between the shower gate and the front gate, right there.

Hamilton
Q. Okay. And you said that you saw the deputy and inmate over to the right.

[redacted]
A. Yes.

Hamilton
Q. To the right of the booth.

[redacted]
A. To the right of, right there by, you couldn't miss it. It's open. You can't miss it. It's open. It's a bright light. The only thing that's lit. Everything else is dark at night in there.

Hamilton
Q. Okay. So in other words, they were standing over there by the other row gates?

[redacted]
A. No.

Hamilton
Q. By the wall?

[redacted]
A. No.

Hamilton
Q. Okay, tell me where they were standing.

[redacted]
A. No. You know how you walk out the booth and it separates open to the, like that, and then there's a center hallway that goes out?

Hamilton
Q. Right.

[redacted]
A. It's right in the center hallway.

Hamilton
Q. They were in the center hallway.

[redacted]
A. Right.

Hamilton
Q. By what wall?

[redacted]
A. By the laundry room. You know where the little metal cage is in the laundry room? That's the wall they're on.

Hamilton
Q. Okay, alright. Okay.

[redacted]
A. And he, he's got his hands on the wall and the officer's talking to him. And the next thing you know...

Hamilton
Q. Hold on. Let me, let me...

[redacted]
A. ...they're fight-...

Hamilton
Q. ...ask the questions. Did he have both hands on the wall, or one?

[redacted]
A. Yes, both hands.

Hamilton
Q. Did the deputy have his hands on the inmate, or was he just standing behind him talking to him?

[redacted]
A. I couldn't tell you 'cause he had, his body was in the way.

Hamilton
Q. So you couldn't tell if his hands were, the deputy's hands...

[redacted]
A. Right.

Hamilton
Q. ...were in front of him?

[redacted]
A. Right.

Hamilton
Q. Were they on the side of him?

[redacted]
A. I couldn't, they, they were in front of him, yes, but I couldn't tell if he was touching the inmate or not.

Hamilton
Q. Was the deputy talking to him?

[redacted]
A. Yes, he was. Had legs, he had his legs separated stance, one leg out between 'em, you know. Talking to him. And, if it was my guess, he'd be telling him, "What the hell you doing? Why don't you listen to what I'm telling you?"

Hamilton
Q. Okay. Well that's okay. If you didn't hear, we don't your...

[redacted]
A. Right.

Hamilton
Q. ...assumptions.

[redacted]
A. Right.

Hamilton
Q. Okay. But you heard them talking, or did you not? Did you hear some words?

[redacted]
A. Yeah, oh yeah.

Hamilton
Q. You just couldn't understand what they were saying.

[redacted]
A. I, yeah, yeah, no, I couldn't understand. Somebody's saying something and I couldn't understand at the moment, at the moment. It's been awhile. I couldn't remember those words.

Hamilton
Q. Okay, and then what happened?

[redacted]
A. Well, I turned about my business a little bit and turn around, they were, the fight had started already.

Hamilton
Q. Okay.

[redacted]
A. And I'm, I couldn't tell you how it started or what, whether one was pushing the other or what-not, but he being an officer, you should know how it really started.

Hamilton
Q. Fights start various ways. I don't know.

[redacted]
A. Provocation is a great, amongst the sheriffs.

Hamilton
Q. Okay, so, well you're just making an assumption. You don't, we don't...

[redacted]
A. That's an assumption. Yes it is.

Hamilton
Q. We don't need to hear about assumptions.

[redacted]
A. Alright.

Hamilton
Q. We just want to get the facts out.

[redacted]
A. Right.

Hamilton
Q. Now when you said that...

[redacted]
A. Excuse me.

Hamilton
Q. ...they were fighting, what exactly do you mean by that?

[redacted]
A. They were wrestling. There was really no physical punching going on. It was a good wrestling match. I was surprised because the officer, because the black dude looked pretty healthy.

Hamilton
Q. Okay.

[redacted]
A. They, they was going at it pretty good.

Hamilton
Q. Okay, and then they were wrestling...

[redacted]
A. And they wrestled all the way up right to where I was standing. Up to the D Gate. Bounced off the D gate. Bounced off the shower gate, right next to it.

Hamilton
Q. Okay.

[redacted]
A. Bounced off the back wall, and they were going at it.

Hamilton
Q. Where that storage room is in...

[redacted]
A. Right, the storage, little mop room right there. Back and forth, bang-bang. They went back and forth a couple times.

Hamilton
Q. Okay.

[redacted]
A. The front door opened. I guess another inmate ran out and told them that there was fighting or something. The door popped open. Somebody ran out. A little while later, a bunch of deputies come running in and they seen what was going on.

Hamilton
Q. Okay.

[redacted]
A. And just as they came in...

Hamilton
Q. Okay, let, let's, let's just stop for one second. Now, just so I can get a clear understanding of what happened. You said that you saw... Did you see the inmate actually walk off the row and, and make contact with the deputy before they actually walked over to the wall?

[redacted]
A. That part, I did not see...

Hamilton
Q. Okay.

[redacted]
A. ...exact-.

Hamilton
Q. Okay. So somehow tha-, that inmate had to walk off the row, okay...

[redacted]
A. Yeah.

Hamilton

Q. ...and make contact with the deputy. The first time you actually saw the deputy and the inmate...

[redacted]

A. They were on the wall.

Hamilton

Q. They were already on the wall, or were they walking towards the wall?

[redacted]

A. They were on the wall.

Hamilton

Q. Okay. They were on the wall and inmate had his hands on the wall. Were they high or to...

[redacted]

A. They were up.

Hamilton

Q. ...hands up high or the side of him, or...

[redacted]

A. They were up.

Hamilton

Q. ...above his head?

[redacted]

A. They were up.

Hamilton

Q. Okay. They were above his head or...

[redacted]

A. Right, they was, they were up. They were, there were mid-size. They weren't directly up. They were above his shoulders.

Hamilton

Q. Okay. And he had his hands on the wall and he, and appeared as if he had his feet spread somewhat?

[redacted]
A. Yeah, yeah. I can, I, I'd just say the dude complied as much. He was facing the wall and his hands are up...

Hamilton
Q. Okay.

[redacted]
A. ...but his head was turning. There were, you could see there was something, but then again, I see that every day.

Hamilton
Q. Okay, well we're just talking about this incident. And then the deputy was standing behind him with, and appeared to be talking to him.

[redacted]
A. Right.

Hamilton
Q. Is that fair?

[redacted]
A. Right.

Hamilton
Q. Okay, because I don't want to put any words in your mouth.

[redacted]
A. No, he appeared to be talking to him. What was being said or assumptions and all that, I can't say (inaudible).

Hamilton
Q. Okay. And when you were viewing this, you were up there on Denver row in between the shower gate and the Denver row gates?

[redacted]
A. The steps, the steps, right, yeah.

Hamilton
Q. Okay, the steps, are you talking about the bottom on the steps or the top...

[redacted]
A. Top of the steps.

Hamilton
Q. So you were between the top of the steps and the Denver row gate?

[redacted]
A. Yeah.

Hamilton
Q. Or the shower gate.

[redacted]
A. Shower gate, at that angle, yeah.

Hamilton
Q. Which is how far?

[redacted]
A. Twenty feet.

Hamilton
Q. How far would say that you were from the deputies and the inmate?

[redacted]
A. Less than the length of this room.

Hamilton
Q. Well...

[redacted]
A. About the length of this room. I'd say about 25 feet.

Hamilton
Q. Okay, 25 feet.

[redacted]
A. Maybe 10 yards.

Hamilton
Q. Okay. And...

[redacted]
A. Approximately.

Hamilton
Q. And then you continued sweeping, you turned your back to the, to the deputies...

[redacted]
A. Right, I went to sweep and all of a sudden, I hear boom-boom. You know how the floor shakes when you hear something?

Hamilton
Q. Okay.

[redacted]
A. I turned around and they were going at it.

Hamilton
Q. Okay, and they were wrestling, basically?

[redacted]
A. They were wrestling basically, yes.

Hamilton
Q. Did you see anybody throw any punches or kicks or...

[redacted]
A. No, I didn't.

Hamilton
Q. ...any knee strikes, elbow strikes, saps come out, flashlights, or anything...

[redacted]
A. At that moment, no. They were both going and they, they hit, they hit the Denver gate so hard, it slo-, closed the gate.

Hamilton
Q. Okay.

[redacted]
A. Right, it slammed the gate.

Hamilton
Q. Okay.

[redacted]
A. Then they back around and they spun over to the, hit, hit the shower gate.

Hamilton
Q. Okay.

[redacted]
A. At that moment, everything looked pretty much above board at that time.

Hamilton
Q. Did anybody say anything? Were the, was the inmate screaming at the deputy or was the deputy screaming at the...

[redacted]
A. There was no fighting at the time. There was, I, there was yelling. Well, there's fighting, normal fighting noise. There was no, there was no words being said.

Hamilton
Q. So nobody was screaming, "Stop it, let me go, or I'm going to kill you," or anything like that?

[redacted]
A. Not that I...

Hamilton
Q. That you...

[redacted]
A. ...remember, no...

Hamilton
Q. Okay.

[redacted]
A. ...at that moment, no. Maybe afterwards.

Hamilton
Q. Okay. Then you...

[redacted]
A. When they was laying on the floor, there was words, yeah.

Hamilton
Q. Okay. And we're going to get to that. Do you remember having a conversation with Internal Affairs Bureau sergeant by the name of Sergeant John Nemeth?

[redacted]
A. Yeah.

Hamilton
Q. Okay. Do you remember being interviewed by him?

[redacted]
A. Yes, I do.

Hamilton
Q. Okay. Do, you remember that interview, correct?

[redacted]
A. Yes.

Hamilton
Q. Okay. Do you remember telling him that you didn't see what happened initially. You never saw them up against the wall. You just saw them wrestling?

[redacted]
A. Yeah.

Hamilton
Q. Do you remember saying that?

[redacted]
A. Yep.

Hamilton
Q. Okay. And now you're telling me that you saw him up against the wall.

[redacted]
A. Yep.

Hamilton
Q. Okay. And why is that? And I'm just, and...

[redacted]
A. I, I...

Hamilton
Q. ...that's fine. I just want to make sure that we have a clear understanding of what happened.

[redacted]
A. Okay, let's get a real clear understanding here. I am afraid of my, for my life in here.

Hamilton
Q. Alright.

[redacted]
A. These sheriffs have shot me. They put me in prison three times.

Hamilton
Q. Okay.

[redacted]
A. They chase me every time I'm on the street. No matter what, I get (inaudible). And there is no difference. I am not safe in here. I'm not really safe saying what I'm saying.

Hamilton
Q. Okay, well let, let me, let's just back up. (inaudible)...

[redacted]
A. I'm afraid for my life in here. That's...

Hamilton
Q. Okay.

[redacted]
A. ...why I never said anything.

Hamilton
Q. Okay. Well you did say something. You just simply saying that you, you told 'em a statement.

[redacted]
A. Partial.

Hamilton
Q. You gave them a statement, okay.

[redacted]
A. And it was known at that time, it was a partial statement.

Hamilton
Q. Okay. What I want to know is, well, I want to make sure that we're going to get a full statement here. If you want to make a statement, that's fine. We'll be more than happy to accept your statement and I told you that prior to coming on tape, okay. I want you to feel comfortable. We're trying to get at the truth here and I want to make sure that I'm not going to get a partial statement neither. But you, you told Internal Affairs a statement and now you're telling us a statement. I just want to get a clear statement so if we, when we present this to the Deputy District Attorney, they'll have a clear picture of what's happening. Because if we happen to go to trial and you're giving us bits and pieces, then we're going to have a problem because the, the defense attorney is going to question that, as well, so we might as well get that out in the open now. Let's get the whole truth of what you saw, what you remember to the best of your ability, and that's all we can ask for.

[redacted]
A. Well, this whole Internal Affairs statement was just to summarize.

Hamilton
Q. No, it was a very lengthy interview. Because I, I've, I've

read it and I listened to it...

[redacted]
A. Uh-huh.

Hamilton
Q. ...and it wasn't like it was a five minute interview. I know it's, it took a while and it them a while to bring out certain things, and I assume...

[redacted]
A. I didn't want to say anything. I'm, I'm still, really still don't either right now.

Hamilton
Q. Okay, well let's...

[redacted]
A. Because you're not saying anything to me for my protection or benefit and that, because you know, as a sheriff, what will happen to me in here if they get this tape or anything close to it.

Hamilton
Q. No, I don't. I don't know what's going to happen to you and, and, and...

[redacted]
A. Well, I do.

Hamilton
Q. Mr. [redacted], let's, let's, let's calm down for a second.

[redacted]
A. I do and I...

Hamilton
Q. Okay. Let me ask you...

[redacted]
A. ...I don't trusts sheriffs.

Hamilton
Q. ...something. Let me ask you something. I, I want to get a

clear understanding, a rapport with you here, okay. Should we continue with this statement or not? I, I can't say beyond, give you a hundred percent guarantee of nothing's going to happen to you in here. I can just simply tell you what I can do as an investigator, okay. I, like I told you, I gave you my card. If you have any problems, feel free to give us a call.

[redacted]
A. I have not way to get to a phone.

Hamilton
Q. Okay, well...

[redacted]
A. I haven't had.

Hamilton
Q. Okay, but you're in the hole right now...

[redacted]
A. Yeah, that's correct.

Hamilton
Q. You're in the hole for what?

[redacted]
A. Extra money.

Hamilton
Q. Okay, did you not have extra money?

[redacted]
A. Yes, I did.

Hamilton
Q. Okay, so my, my point is, is I'll do the best I can. Give me an opportunity to do that, but in, in return, I expect you to do the best you can by giving us a statement. I, I mean I can, I'm not going to sit here, you been around long enough and I can promise you the world. And you know what? You wouldn't respect me if I told you, "Yeah, oh yeah, I'd protect, I'd do all these wonderful things for you," because you...

[redacted]
A. (inaudible) like that...

Hamilton
Q. ...know the truth.

[redacted]
A. It ain't going to happen.

Hamilton
Q. Right. You know the truth. But what's, what could happen is that, once again, if you're having problems, we'll try to resolve those problems when you get a chance to get to a phone, or you can talk to a watch commander or, or a sergeant here. Okay, they have certain responsibilities that they must adhere to. Okay, you have to understand that. If you don't feel comfortable with the system, there's nothing I can do for you. That's something that you have to deal with yourself.

[redacted]
A. Understandable.

Hamilton
Q. Okay? You know, I'm, I'm trying to do the best I can. I'm not going to sit here and lie to you. Okay, the, it's, it'd cost me too much to lie to you, okay? I mean, the choice is yours. Like I told you prior to coming on tape, only thing I want is the truth from you. You know, we're talking about some deputies' careers on the line and if they did something, like I told you off tape, if they did something inappropriate, we want to know about it. And, and if we, that means that we need to counsel them, written reprimand, days off, termination, criminal filings, then that's what we, if we need to do that, then we'll do that. If not, if the deputies were doing their jobs, then we want to know about that as well. There's no need for us to...

[redacted]
A. Yeah.

Hamilton
Q. ...sit here and, and be kidding each other.

[redacted]

A. Yeah, well, you know, it's like, it's like this, when they get this here tape, where am I gonna be?

Hamilton

Q. Okay. Let's, let's go off tape and we'll discuss this issue because we're, what I want to do is get the statements...

[redacted]

A. I'll be glad to give a statement, but, you know, like I said, I been shot by L.A. County Sheriff.

Hamilton

Q. Okay. Today is, what, December 27th, okay. Today, right now.

[redacted]

A. Yes, sir.

Hamilton

Q. Do you want to give me a statement about what happened on that particular night?

[redacted]

A. Yes, but I need some guarantees.

Hamilton

Q. Okay. Such as?

[redacted]

A. Such as I'm not going to be injured in here by sheriffs in such the way that gentleman was. And such as the way I've seen several others.

Hamilton

Q. Okay. Well I'm telling you, I'm, I'm, I'm looking you in the face and I'll tell you, be quite honest with you, I cannot give a hundred percent guarantee. And I told you that before. I told you that off tape. I told you that on tape. That I cannot guarantee a hundred percent that nothing will not happen to you. What I can guarantee you is, first of all, no one gets these tapes, okay. We work a very special unit. The captain here at Men's Central Jail, they don't, they're not privy to these tapes. No one within this facility is privy to this tape, other than people in our own unit,

a confidential report. Like my partner told you the last time we met, a couple weeks ago, that if we file criminal charges against the deputies that were allegedly involved in this incident, then of course it's going to be brought out in court. The deputies have access to it. Their attorneys have access. It's public record at that point. So as far as who said what, it's going to be disclosed...

[redacted]

A. At what, at what, at what time would this be?

Hamilton

Q. Like I just said, once...

[redacted]

A. Well how soon would that be?

Hamilton

Q. Oh, who knows? We, were talking about at, at the point of me writing all these reports and turning in, we're talking about months...

[redacted]

A. Alright.

Hamilton

Q. ...from now. And we told you that a couple weeks ago.

[redacted]

A. I can be in state prison by then.

Hamilton

Q. Well, even still, even still, I, I think that there's certain precautions that we take too. If, if you're filing cases, if we're going to file a case against some deputies that worked here at Men's Central Jail, from my experience, we wouldn't house the inmate that was testifying against them in the same facility that these deputies worked, okay? We'd house you somewhere else if we could. You know, we're into the business of protecting the inmates, whether you are testifying against the deputies or simply just another inmate in this facility. We try to do our best to protect the inmate. Whether it happens or not is a different issue. That's, that's our goal is to protect the inmates. We're

not in here to allow a deputy sheriffs or any other person to hurt inmates. That's nor our business. But as you well know, being in the system before, it happens. We can't be everywhere at once. And for me to sit up here and say that we're just going to fully protect you 100 percent, it just, it's not gonna happen. You know, we'll put you somewhere where we can protect you as best we can. You know, I, I certainly wouldn't want to get, wouldn't want you to be hurt, whether you were providing information for us or not.

[redacted]

A. Yeah.

Hamilton

Q. You know, I worked here in this facility, so I'm very familiar with things.

[redacted]

A. You know how it goes.

Hamilton

Q. And, and like I said, as a supervisor, I took my job very serious and, and the deputies that worked for me, I hope they, that they did, felt the same way. Some of 'em do. Some of 'em don't.

[redacted]

A. Well, can I ask you on the record here. How's, how, what's your personal feelings towards these officers, officers? Not saying this one's conduct as such.

Hamilton

Q. I'm not going to address that issue. That's not why I'm here, okay. I'm here to conduct an interview in a criminal matter. And you have to understand that, okay?

[redacted]

A. Alright, well let's proceed.

Hamilton

Q. We can, we can switch, change this interview around and before we know it, you're talking to me and interviewing me and we're off the subject.

[redacted]
A. I'm not into that, come on now.

Hamilton
Q. Well, well what I'm saying is simply, let me get a statement from you. Let's, let's...

[redacted]
A. You can have it.

Hamilton
Q. ...go through it and then...

[redacted]
A. Let's go.

Hamilton
Q. ...we can talk all day. I got, whatever, I got until Friday and then...

[redacted]
A. Let's...

Hamilton
Q. ...I'm off, so if...

[redacted]
A. Let's go.

Hamilton
Q. ...you got the time, I got the time.

[redacted]
A. I got nothing but time.

Hamilton
Q. Okay, good. Okay, so let's just get back on, on track here.

[redacted]
A. Excuse me.

Hamilton
Q. Now, you were saying earlier that you gave Internal Affairs

a statement and you had mentioned in that statement to Internal Affairs that you did not see the initial confrontation between the deputy and inmate, and now you're telling me today that you saw the initial confrontation between the...

[redacted]
A. You see what...

Hamilton
Q. ...deputy and inmate.

[redacted]
A. That's not the initial confrontation. The initial confrontation was in the glass and, and the man outside yelling. I mean, he's in the glass yelling at the man outside. I hear it all the time. I don't pay attention to it. He had jumped out of his cell. When he's yelling, "Get back in your cell, get back in your cell, get back in your cell" He ain't listening.

Hamilton
Q. Okay.

[redacted]
A. I don't want to listen. He gonna tell me to go down there and get that man back in cell, I'm not gonna do that.

Hamilton
Q. Okay, did he tell you that?

[redacted]
A. No, he didn't.

Hamilton
Q. Okay.

[redacted]
A. You can't hear on the speaker. Them...

Hamilton
Q. Okay.

[redacted]
A. ...speakers aren't, you know how it is, and he, especially

when you're yelling, you can't hear nothing. He leans against the wall. I guess he told him...

Hamilton
Q. (inaudible)...

[redacted]
A. They finally get him to the gate.

Hamilton
Q. Right.

[redacted]
A. In the gate. I'm not listening. And I come back down and I look to see what's going on. They're on the wall.

Hamilton
Q. Okay, go ahead.

[redacted]
A. And then I look, I turn my back for a second, you know, whatever, I, broom, or whatever I was doing, had the broom in my hand, I turned my back. I hear a whoopin' noise. I turn around and look, and I'm kind of amazed 'cause not too many people take off on an officer like that.

Hamilton
Q. Okay.

[redacted]
A. But they were on each other.

Hamilton
Q. Okay. So let's just back up so we can it step by step. You saw him on the wall initially. You, you, you saw the deputy appear to be talking to him, but you...

[redacted]
A. Right.

Hamilton
Q. ...couldn't understand what was going on.

[redacted]
A. Right.

Hamilton
Q. Did you hear the inmate talking to the deputy?

[redacted]
A. The inmate had his head turned, looked at him.

Hamilton
Q. But you didn't...

[redacted]
A. But he was turned, facing the wall.

Hamilton
Q. Okay.

[redacted]
A. And the officer was on his back.

Hamilton
Q. Okay, so, the officer was standing behind him.

[redacted]
A. Yes.

Hamilton
Q. Versus on his back.

[redacted]
A. On his back.

Hamilton
Q. Are you saying the deputy was on top of his back?

[redacted]
A. He was leaning on him. You know, you know how, I guess part of that training is that, is to keep the inmate off balance.

Hamilton
Q. Okay, so was the deputy's upper body on this guy, or was his hands on this guy, or...

[redacted]
A. I couldn't see his hands.

Hamilton
Q. Okay.

[redacted]
A. He could've had one of his hands. He could've, you know, he could've, anywhere on the man, right.

Hamilton
Q. Okay.

[redacted]
A. I, I couldn't tell. All I could see was I was in the front view, like this direction.

Hamilton
Q. Okay.

[redacted]
A. And like that. And turning, when I turned, with the broom I heard the floor shaking, went on, everybody knows that's a fight. I turned and looked. They were wrestling. I didn't see no punctures. None of that. I...

Hamilton
Q. I forgot to, okay, I forgot to ask you earlier. Do you know who the deputy was?

[redacted]
A. No.

Hamilton
Q. Okay. Do you know what he looked like?

[redacted]
A. White.

Hamilton
Q. Male?

[redacted]
A. Yes, of course.

Hamilton
Q. Okay. Well, they have females working the facility. So I want to...

[redacted]
A. Yes, but she wouldn't have stood a good chance.

Hamilton
Q. Okay. Male, white...

[redacted]
A. Yeah, about the same size as the dude.

Hamilton
Q. How, how tall is that?

[redacted]
A. I'm guessing 5'10", 5'11", 5'8", right around there.

Hamilton
Q. I know it's a conservative guess. There's no problem. If you're...

[redacted]
A. Right.

Hamilton
Q. ...off, that's fine. I'm just asking what you saw.

[redacted]
A. Yeah.

Hamilton
Q. The guy have a moustache, beard?

[redacted]
A. What, the cop?

Hamilton
Q. Yeah.

[redacted]
A. No, light colored hair.

Hamilton
Q. No moustache.

[redacted]
A. I couldn't tell.

Hamilton
Q. Okay.

[redacted]
A. I don't remember. It's been awhile.

Hamilton
Q. Okay.

[redacted]
A. Not really.

Hamilton
Q. Color hair you said?

[redacted]
A. He might have had a small moustache. Color hair, like light color hair, sand, light. Not red, not black. You know, it might have been brown, but light colored hair.

Hamilton
Q. How was it combed or cut?

[redacted]
A. Well he, that's getting kind of extreme. I couldn't, I couldn't tell you.

Hamilton
Q. Okay. You don't know if it's like a...

[redacted]
A. I think the officer's name...

Hamilton
Q. ...Pat Riley-combed back, or if it, if it stood straight up, or was it balding, or receding?

[redacted]
A. What it is, you can tell my hair style. I'm not really into hair styles.

Hamilton
Q. Okay. Well that's a style. That's fine.

[redacted]
A. I just got long hair. That's it. Long hair, short hair. That's the difference. I couldn't tell, I couldn't tell you fade, wave...

Hamilton
Q. Okay.

[redacted]
A. ...pelon or that.

Hamilton
Q. Well this is like, you've seen Pat Riley before, right?

[redacted]
A. Yeah, pull his hair back, to the back?

Hamilton
Q. Yeah, it, wets, combed back...

[redacted]
A. Yeah, well that's Mexican style.

Hamilton
Q. Okay.

[redacted]
A. Convict style. No, I didn-, I couldn't tell you.

Hamilton
Q. Okay. Did he have glasses on?

[redacted]
A. I couldn't tell. No, I don't think so.

Hamilton
Q. How did you know he was a deputy?

[redacted]
A. The uniform.

Hamilton
Q. Okay. What, what did his uniform look like?

[redacted]
A. Standard sheriff uniform.

Hamilton
Q. Which is what?

[redacted]
A. Grey and brown or tan or whatever color. It was tan and whatever color slacks.

Hamilton
Q. Okay, you don't remember?

[redacted]
A. Green slacks, just a sheriff uniform. His name started with an "S".

Hamilton
Q. Okay.

[redacted]
A. Something like that.

Hamilton
Q. Okay. The reason I'm asking and, the description is because we have civilians, uniformed civilians working...

[redacted]
A. Blue. Yeah, it wasn't one.

Hamilton
Q. ...in here that, that work, wear uniforms. So that's why I was inquiring, what color was the uniform.

[redacted]
A. Uh-huh. It was a sheriff uniform. Standard, khaki green, whatever that is.

Hamilton
Q. Okay. And, okay, so go ahead. The inmate and deputy started struggling. They made it over to the Denver row gate. They hit the row gate, then they hit the shower gate, then they hit...

[redacted]
A. Bang-bang-bang-bang.

Hamilton
Q. ...the wall, then they hit...

[redacted]
A. It's like...

Hamilton
Q. ...the wall. Go ahead.

[redacted]
A. Then they hit the wall and then they were wrestling and I heard somebody say something, but I don't remember what it was. But I know if it was a deputy, I wasn't going to go help him or the inmate (inaudible). If he got him, if he got the cop down, I don't know what I'd do, you know. I'm still a human being I hate seeing beatings.

Hamilton
Q. Sure.

[redacted]
A. You know way I mean? And, you know, whether a cop would help me or not, it's a different story. I might have helped him, you know. But the next thing you know, I hear the door gate pop, the front, that's one gate...

Hamilton
Q. Okay.

[redacted]
A. ...to the hallway. Some officers run in and they didn't know what to do. They ran in, they looked to the right, and there they were on the floor. As soon as they came in, they hit the floor, bang.

Hamilton
Q. Where did, where did they hit the floor?

[redacted]
A. Right there.

Hamilton
Q. Right there, where?

[redacted]
A. Right there in front of the mop room and D gate.

Hamilton
Q. Okay. Do you know which way their heads were facing?

[redacted]
A. It looked to me, I couldn't say for sure at the time, but it looked to me like the inmate on the bottom and the officer on top.

Hamilton
Q. The inmate on the bottom and the officer on top. Do you know which way their heads were facing. Was it facing towards the mop room when...

[redacted]
A. mop room.

Hamilton
Q. ...the, or the, a...

[redacted]
A. They went down. They was there fighting. I'm standing at D gate. They came at me. Went to the side. I went back this way. They were fighting and they went back a couple times. And, they

hit the guy, I couldn't really say, it looked like an even land.

Hamilton
Q. Okay, but did they...

[redacted]
A. One wasn't dominant, no.

Hamilton
Q. Were their heads, no. What I'm asking you, which way (inaudible)...

[redacted]
A. (inaudible) first?

Hamilton
Q. ...their heads facing? Were their heads facing the row gates? Their heads.

[redacted]
A. No, it looked like their heads were facing the mop room.

Hamilton
Q. Okay, and their feet were facing, where?

[redacted]
A. The row gate.

Hamilton
Q. Okay. And they both fell one on the bottom and one on top, or side by side?

[redacted]
A. It looked pretty much side by side. Didn't look like, you know, you see a lot of fights and you see something, aw, that was a hard hit, you know.

Hamilton
Q. Right.

[redacted]
A. It didn't look like no hard hit.

Hamilton
Q. Okay, so the best of your recollection, they fell on the sides.

[redacted]
A. Right. Yeah, one, didn't look like one threw the other, that they both went. Because of extra body weight...

Hamilton
Q. Do you know which side they fell on? Was it their right side or left side?

[redacted]
A. I couldn't tell (inaudible). From my, from my view, if I had, I don't want to guess, I, you know, hypothetical. Now I can't remember. Looked like it was the inmate's right side and deputy's left shoulder. You know, like it was this direction. The deputy was on my left-hand side and (inaudible) when they were wrestling, they came on like that and they went down.

Hamilton
Q. Okay, so the deputy, if, you were, you were facing the storage room, or the mop room.

[redacted]
A. Right.

Hamilton
Q. The deputy appeared to be on the left?

[redacted]
A. My left, right.

Hamilton
Q. And the inmate appeared to be on your right.

[redacted]
A. Right, but they spun around a couple times.

Hamilton
Q. Okay, but I'm just saying initially.

[redacted]
A. Yeah, they spun right.

Hamilton
Q. Okay. And then what happened?

[redacted]
A. And then they hit they shower, then they hit the floor, and then the deputies come rushing in, bang, and then somebody yelled for me to, "Get the fuck out of there."

Hamilton
Q. Okay, let's just stop...

[redacted]
A. ...a good fight fight...

Hamilton
Q. ...right there.

[redacted]
A. Right.

Hamilton
Q. Let's stop right there. You said the deputies came in, okay.

[redacted]
A. Yeah.

Hamilton
Q. You know how many deputies there were?

[redacted]
A. At that, it didn't look like a bad rush. It looked like whoever was on duty that night in the hallway right there.

Hamilton
Q. Okay, but what I'm asking you is, how many deputies?

[redacted]
A. About three.

Hamilton
Q. Three?

[redacted]
A. Maybe. About three...

Hamilton
Q. (inaudible)?

[redacted]
A. ...no more to, at that time.

Hamilton
Q. Okay. Do you know what they looked like? What did the first one look like?

[redacted]
A. All I know is there's one black dude and a couple whites. I mean, I couldn't even tell you, the one could have been Mexican. I, it, at, at the time, you, you really don't pay attention, you know, because you don't want to be next.

Hamilton
Q. Okay. Were they in uniform or were they in civilian attire?

[redacted]
A. They were in uniforms.

Hamilton
Q. Okay. Did anybody have stripes?

[redacted]
A. I, no, I couldn't see that.

Hamilton
Q. Okay. You couldn't see it...

[redacted]
A. Not that.

Hamilton
Q. ...or you just don't remember?

[redacted]
A. I did, I couldn't see that. I know I don't remember. I'm, I'm, I'm, quite obvious, I'm almost positive, no stripes, no.

Hamilton
Q. Okay. Did you recognize any of the deputies?

[redacted]
A. No, it was early morning. I didn't, I, that was my first early morning shift. I work different shifts.

Hamilton
Q. Okay. How long you been incarcerated?

[redacted]
A. At this time?

Hamilton
Q. Yeah.

[redacted]
A. Since September.

Hamilton
Q. Okay. And how long have you been in that module?

[redacted]
A. In that module? I been on that floor for a couple months, for a month something.

Hamilton
Q. A couple of months?

[redacted]
A. A month something.

Hamilton
Q. Okay.

[redacted]
A. A month.

Hamilton
Q. A month plus.

[redacted]
A. Yeah, a month plus.

Hamilton
Q. Okay.

[redacted]
A. Since I been there.

Hamilton
Q. Okay. And you, you didn't recognize these deputies.

[redacted]
A. Well, I recognized some of the deputies that were on that floor, but those deputies at the time, I wasn't paying attention.

Hamilton
Q. Okay, that's fine. I just wanted...

[redacted]
A. I really...

Hamilton
Q. ...it's just a normal question to ask because obviously we want to identify everyone that was there. And if you happen to know who they were, we'd like to know, so we can talk to these deputies and find out exactly what happened. So, could you identify 'em? Do you how tall they were, how short they were?

[redacted]
A. No, they were all about average height, I guess. One, in my mind, I picture one heavier than the other.

Hamilton
Q. Okay.

[redacted]
A. And a couple whites. And I think a black dude, yes.

Hamilton
Q. Okay.

[redacted]
A. And they come in about three, they came in. They didn't know where to go.

Hamilton
Q. Okay.

[redacted]
A. 'Cause obviously an inmate went and told 'em something was going on.

Hamilton
Q. Okay. Well, you're assuming that.

[redacted]
A. Very good assumption, yes. I, I, yes. The dude on the phone, the fat, black dude hung up, I mean, headed, went out the door and he had to say something, because the dude don't got no panic button on him.

Hamilton
Q. Okay.

[redacted]
A. And I don't think there was anybody else in the booth.

Hamilton
Q. Okay.

[redacted]
A. You know what I mean? I'm sure, you know?

Hamilton
Q. There was somebody in the booth.

[redacted]
A. Yeah, well, there it was.

Hamilton
Q. Okay, so...

[redacted]
A. Then that, that, that's who called then.

Hamilton
Q. Okay. But I'm just trying, let's, let's get back on track. I'm just trying to figure out, okay, when these three officers came in, or you're just saying that you believe, to the best of your recollection, there may have been two whites and one black officer.

[redacted]
A. Right, but I'm not sure.

Hamilton
Q. Okay. Do you know what officer, black officer looked like? Did he have a moustache?

[redacted]
A. No, I can't, I can't say none of that.

Hamilton
Q. Okay. Did he have glasses?

[redacted]
A. I can't say none of that.

Hamilton
Q. You can't or you just don't remember?

[redacted]
A. I don't remember.

Hamilton
Q. Okay, on any of them.

[redacted]
A. I don't remember.

Hamilton
Q. If I presented some pictures, would you be able to identify them?

[redacted]
A. I could try.

Hamilton
Q. Did, did Internal Affairs sergeant give, show you any pictures?

[redacted]
A. No, they didn't.

Hamilton
Q. Okay. Alright.

[redacted]
A. I'd like to know how the gentleman is that got, that, that, that...

Hamilton
Q. Okay, we can talk about that off tape.

[redacted]
A. ...bumped his head.

Hamilton
Q. Okay, we can talk about that off tape. So, okay, they came into the module. They looked to the right where the deputy and this inmate were struggling on the floor. Then what happened?

[redacted]
A. Well then they jumped on, well, it's obvious, from what I seen, they, they, they all jumped on him, in whatever manner at that time, to get him up off the deputy, to get each other up. You know what I mean? To get the deputy free.

Hamilton
Q. Okay.

[redacted]
A. 'Cause he was just holding on. I don't know if the dude was screaming for his mom or screaming "fuck you" or whatever, but somebody was screaming something...

Hamilton
Q. Okay.

[redacted]

A. ...you know. And then I started hearing the booth and I started hear, hearing heavy body hits.

Hamilton

Q. Let's take it one step at a time. Okay, you said that you saw the deputies enter the module. You say they ran over and looked to the right. They went over to where the deputy and the inmate were struggling and all three, you're assuming it's three, you're, you, you're not for sure...

[redacted]

A. Right.

Hamilton

Q. It could be one more. It could be one less.

[redacted]

A. One less, right.

Hamilton

Q. But you believe it may have been three officers. They went over there and grabbed the inmate?

[redacted]

A. Right, and (inaudible)...

Hamilton

Q. How did they grab him?

[redacted]

A. I couldn't tell, they, well, they all jumped on him. Like they jumped, it was like, it was like a rat pack.

Hamilton

Q. When you say jump, what does that mean? Be specific.

[redacted]

A. Hands on prop, hands on. They put their hands on him.

Hamilton

Q. Okay. When I, when I say being specific, just take your time. It's no big deal. We want to know, did somebody grab this guy?

Did they kick him? Did they pull him? How did they do, how did they grab...

[redacted]

A. Well I, that I couldn't really tell you, you know. They just surround the dude. They went, came in and broke the officer and him up. And I couldn't tell you how it was done, if they put their hands in the middle or if one choked him out or put his fingers in eye or no, you don't pay attention to all that. Unless he's here, you know, the only thing you really pay attention to is, is the real gruesome details. I mean, it sounds weird, but that's how, that's what it is.

Hamilton

Q. How far were you away from the, the, the officers once the second group came in, how far were you? Did you move away? Did you (inaudible)...

[redacted]

A. No, hell, I stood there. I'm standing, at that time, I'm standing at the top of the steps.

Hamilton

Q. Okay, so you (inaudible)...

[redacted]

A. The length of the steps.

Hamilton

Q. How many feet?

[redacted]

A. Well, for the vertical height, about six feet. And from the, from a distance, about ten feet, twelve feet.

Hamilton

Q. Okay. And there's no obstruction of your view. Not...

[redacted]

A. Just a gate.

Hamilton

Q. Right, and they're all open.

[redacted]
A. Well that gate slammed shut. I mean, I got my...

Hamilton
Q. But I mean you could see through the gate...

[redacted]
A. Yeah, oh yeah.

Hamilton
Q. There's no...

[redacted]
A. It's six inch bars way up...

Hamilton
Q. Okay.

[redacted]
A. ...the front, yeah.

Hamilton
Q. Okay. So you don't know how the deputies grabbed this guy.

[redacted]
A. Yeah, with their hands, of course. But I can't tell you, no...

Hamilton
Q. Okay.

[redacted]
A. I'm sure somebody might, somebody might have grabbed his hair. Somebody might have grabbed his nose. Somebody might have grabbed his nuts. I can't say for sure.

Hamilton
Q. Okay, and that's fine.

[redacted]
A. You know, but they got apart.

Hamilton
Q. Okay, I just wanted to make sure...

[redacted]
A. And that...

Hamilton
Q. Do you...

[redacted]
A. and that's when it...

Hamilton
Q. Okay.

[redacted]
A. Right.

Hamilton
Q. Did you actually see the deputies pulling this guy away from the, the first deputy?

[redacted]
A. Yeah, I seen that. That's when I turned and left. One yelled at me, "Get the fuck out of here."

Hamilton
Q. Okay. Who, which one was that?

[redacted]
A. I couldn't tell you which one it was.

Hamilton
Q. Okay. Did all three deputies grab this guy, or did two of 'em grab him and one stood by, or, or...

[redacted]
A. All three from my, what I got. I'm not, I'm not even sure if it's three.

Hamilton
Q. Okay. Well...

[redacted]

A. I'm thinking, I'm thinking it's three. I'm picturing three people in my head right now coming in.

Hamilton

Q. Okay. That's fine. That's fine.

[redacted]

A. And then, then more poured in, poured in.

Hamilton

Q. How many more?

[redacted]

A. I couldn't tell you.

Hamilton

Q. Approximately.

[redacted]

A. I couldn't even guess.

Hamilton

Q. Were there four?

[redacted]

A. I couldn't guess.

Hamilton

Q. Well when you say a lot and (inaudible)...

[redacted]

A. I couldn't guess. It wasn't a major pile up like during the day time, during a shift change, there'd be a pile up right there.

Hamilton

Q. Alright.

[redacted]

A. Wasn't like that. It was early mornings, whatever could get there early morning at that time.

Hamilton
Q. How, how, how long after the first wave of officers came in did the second wave come in?

[redacted]
A. I couldn't tell you.

Hamilton
Q. Was it a minute, 30 seconds (inaudible)...

[redacted]
A. I was down the other hallway. I couldn't tell you. They told me to get the fuck out. I left.

Hamilton
Q. Could you take a guess?

[redacted]
A. Yeah, a hundred could have came in and left, and I couldn't tell you.

Hamilton
Q. Okay, but the one, you said the second wave came in, that you saw...

[redacted]
A. See I, here, here's how it is. Like I, they're doing their little thing on the floor. They break 'em up, the officer. They break the officer up, and him up. Alright, and then, then during the whole course of that time this is happening, people come and go all the time. I don't, I'm not paying attention at all to that.

Hamilton
Q. Okay.

[redacted]
A. You know, I, I, like I said, President Reagan could have came in.

Hamilton
Q. Okay, so...

[redacted]
A. I, I would've noticed that, well, okay.

Hamilton
Q. So when the first wave of officers came in, they went over there to grab the inmate off the first deputy. Was he pulled...

[redacted]
A. It, it had been a little while before somebody else came in that day.

Hamilton
Q. Okay, but once they...

[redacted]
A. It had been awhile.

Hamilton
Q. ...pulled them apart, somebody, who you don't know, told you...

[redacted]
A. "Get the fuck out." He was, he was against the D gate and he was kind of breathing hard and turn up to see me standing right there.

Hamilton
Q. Alright.

[redacted]
A. Told me, "Get the fuck out of here."

Hamilton
Q. Okay, so where did you go?

[redacted]
A. Went down the end of the tier to about cell 9 or 10 and sat down on the floor.

Hamilton
Q. Okay. Were you talking to somebody down there?

[redacted]
A. Yes, I was.

Hamilton
Q. Okay, who was that?

[redacted]
A. Guy named [redacted].

Hamilton
Q. [redacted]?

[redacted]
A. [redacted], yeah.

Hamilton
Q. What was he in jail for?

[redacted]
A. High speed pursuit, felony evading. I know him from the streets.

Hamilton
Q. Okay. Is he still in custody?

[redacted]
A. Yes, he is.

Hamilton
Q. Okay. [redacted]?

[redacted]
A. Yeah, [redacted].

Hamilton
Q. [redacted]?

[redacted]
A. Yeah.

Hamilton
Q. Okay. Okay, and then you went down to the end of the row gate, or...

[redacted]
A. Double L, that's double L, yeah.

Hamilton
Q. Okay. You went down the row and...

[redacted]
A. Well, I was kickin' back...

Hamilton
Q. ...then, go ahead.

[redacted]
A. I was talking to [redacted] and I'm, and I'm looking down on the tier. Every, everybody is on the tier, the one, the first cell, yelling and screaming and, and for me to, to get out of the way when I was down there, so they could see what's going on.

Hamilton
Q. Uh-huh. Could they see what was going on? The guys who were on the floor?

[redacted]
A. They guys that were on, they, the guys in the cells, first, second cell, they could see...

Hamilton
Q. In Denver row 'cause Denver row is above...

[redacted]
A. Oh, right. They could, you could see this much, from the chest up.

Hamilton
Q. If somebody was standing up?

[redacted]
A. You could see motion. I, you could see motion.

Hamilton
Q. Okay. So do you...

[redacted]
A. But that, by that time, the dude was already on the ground.

Hamilton
Q. Okay, so you went down to Cell 9 to talk to inmate [redacted].

[redacted]
A. Nine or 10, yeah.

Hamilton
Q. Nine or 10, okay.

[redacted]
A. Right. It was 10 I think...

Hamilton
Q. And then you said you heard something?

[redacted]
A. Yeah, I heard somebody yelling and screaming.

Hamilton
Q. You heard somebody yelling and screaming?

[redacted]
A. Yeah.

Hamilton
Q. What were they yelling or screaming?

[redacted]
A. I couldn't even tell you. It was, it was intervaled by, by, by body hits.

Hamilton
Q. Okay, and what are body hits?

[redacted]
A. I looked over and I see officers kicking.

Hamilton
Q. Okay. How can you see somebody kicking if you're sitting down

on the floor?

[redacted]
A. Oh, man, let me tell you. You can see kicking.

Hamilton
Q. Okay. How can you see, I'm just asking you because...

[redacted]
A. Well let me see. I watch football, I've kicked all my life and I'm, I'm, and I'm telling you, I seen kicking.

Hamilton
Q. Okay. Who kicked?

[redacted]
A. I couldn't tell you. Officer.

Hamilton
Q. You can't...

[redacted]
A. No, sir. I couldn't tell you.

Hamilton
Q. Why, why not?

[redacted]
A. Everything up, up to that point looked pretty above board. You know what I mean?

Hamilton
Q. How come you can't tell me who, who kicked?

[redacted]
A. I...

Hamilton
Q. Can you give me a description?

[redacted]
A. White.

Hamilton
Q. Okay. What else?

[redacted]
A. That's it. Uniform.

Hamilton
Q. Okay. Was this inmate cooperating with the deputies? Was he resisting the deputies?

[redacted]
A. He was laying on the floor. And when I thought it was all over, and I walked back up 'cause it was quiet.

Hamilton
Q. But what I'm asking you is, at this point when you said that you saw the deputy kicking...

[redacted]
A. Uh-huh.

Hamilton
Q. ...was he cooperating with the deputy or was he...

[redacted]
A. I have no idea.

Hamilton
Q. ...resisting?

[redacted]
A. He could have been resisting, yes.

Hamilton
Q. Okay.

[redacted]
A. But I don't see how you could be resisting with five people, or four or five people around you.

Hamilton
Q. Okay, around him?

[redacted]
A. Yes.

Hamilton
Q. Okay. Were they surrounding him, or were they...

[redacted]
A. Yes.

Hamilton
Q. ...on top of him, or...

[redacted]
A. Surrounding him. He was alone on the floor. Everybody else was standing up.

Hamilton
Q. Okay, but could he have been resisting?

[redacted]
A. He was (inaudible). At that time? On the floor, by himself? No, I...

Hamilton
Q. Or did you see him resist?

[redacted]
A. No, I couldn't tell you. No, I...

Hamilton
Q. You couldn't tell either way?

[redacted]
A. No, sir. That's right. I couldn't...

Hamilton
Q. Okay.

[redacted]
A. He could have been resisting. But at that time if he resisting would be, was, if was resisting, why were other officers standing there?

Hamilton
Q. Okay.

[redacted]
A. And only one officer attempting to stop him from resisting doing what?

Hamilton
Q. Okay.

[redacted]
A. Holding onto their ankles?

Hamilton
Q. I, I don't know. I'm just asking...

[redacted]
A. There's, there, there's no point if you think about it. There's nothing to resist.

Hamilton
Q. Okay, so they, you say you saw one officer, or two officers, or three officers kicking this guy?

[redacted]
A. One, one.

Hamilton
Q. One kicking?

[redacted]
A. Right.

Hamilton
Q. Do you know where...

[redacted]
A. I heard him yelling...

Hamilton
Q. Go ahead.

[redacted]
A. From the position, when I came back up, the position that he was laying in, and the way the officer was kicking, 'cause he could have been moving around the floor, when I got there, his feet were sideways and his hands were behind his back.

Hamilton
Q. Okay. Let's go back to when you saw the officers kicking this guy.

[redacted]
A. Yeah.

Hamilton
Q. Okay. One officer kicking?

[redacted]
A. That's what I seen.

Hamilton
Q. Okay.

[redacted]
A. But I specifically tried not to look.

Hamilton
Q. Okay, did you see where he was kicking?

[redacted]
A. Yeah, he was standing with his back to the mop room...

Hamilton
Q. Okay.

[redacted]
A. ...kicking in a forward direction toward the gate...

Hamilton
Q. Okay.

[redacted]
A. ...toward the shower and the gate. Like he was kicking a football.

Hamilton
Q. Did, did you see him actually kicking an inmate of...

[redacted]
A. Nope.

Hamilton
Q. Could he, could he...

[redacted]
A. I couldn't see that.

Hamilton
Q. Did you see him kicking anything?

[redacted]
A. I heard him kicking a body.

Hamilton
Q. Okay. What does that mean?

[redacted]
A. I heard somebody kicking a body. Well he could've...

Hamilton
Q. What...

[redacted]
A. He could've been kicking the...

Hamilton
Q. I mean, did you hear moans or groans (inaudible)...

[redacted]
A. Yeah, I heard yells.

Hamilton
Q. ...screaming?

[redacted]
A. Yes, I heard yells. I heard, no much yelling, but I, I heard foot contacting human flesh.

Hamilton
Q. Okay. Alright.

[redacted]
A. And then I heard a deputy stating something about, "You wanna," something, "You wanna grab me?" or "You wanna do something, You wanna hit an officer," or something like that was. I can't say those were his exact words.

Hamilton
Q. Okay.

[redacted]
A. But a statement was made, yes.

Hamilton
Q. Well he was saying something. You just...

[redacted]
A. Yes.

Hamilton
Q. ...didn't understand what he was saying.

[redacted]
A. ...while he was kicking, yes.

Hamilton
Q. Okay.

[redacted]
A. And just...

Hamilton
Q. What, what were the off-, other officers doing while this guy was kicking?

[redacted]
A. Standing around.

Hamilton
Q. The whole other officer were standing up, from, from what you noticed?

[redacted]
A. Yes.

Hamilton
Q. Okay. And then there was just one.

[redacted]
A. There could've been one on the floor trying to do something, but, you know, I'm, see I'm given, I'm...

Hamilton
Q. From what you say...

[redacted]
A. ...I'm, I'm being honest here, you know.

Hamilton
Q. And I appreciate that. From what you saw, you saw officers standing up, okay. You saw one particular officer making a kicking motion.

[redacted]
A. Right.

Hamilton
Q. And you were sitting...

[redacted]
A. And talking shit to him.

Hamilton
Q. Okay, you were sitting on the floor talking to your, you were around cell 9 or 10, talking...

[redacted]
A. Yeah, I was sitting on the floor...

Hamilton
Q. ...to your...

[redacted]
A. To my, my compadre down there, and I'd stand up every now and then and sit down and talk to him, look here, like, you know,

like a little gopher, looking to see what's going on now. You know how it goes.

Hamilton
Q. Okay. See, that's the point. I just...

[redacted]
A. Well (inaudible)...

Hamilton
Q. ...want to get a clear understanding, like I say, of what happened, what you were doing, when it happened, how it happened, who did it, so on and so on. Okay, and then what happened?

[redacted]
A. Well, after awhile, I get, we see that all the time. After awhile, it gets pretty...

Hamilton
Q. Go ahead.

[redacted]
A. After awhile, it gets pretty boring, you know.

Hamilton
Q. Okay.

[redacted]
A. It got quiet.

Hamilton
Q. Okay.

[redacted]
A. So I thought, after a few kicks and this and that, people yelling and screaming and telling them, "Hey, get the fuck off the inmate. Quit kicking him." You know what I mean? (inaudible) you know how it goes, trying...

Hamilton
Q. No, I don't. Tell me what happened.

[redacted]

A. And they're yelling and screaming, like cells 1, 2 and 3 are yelling and screaming at 'em, telling them to got off him, quit hurtin' the dude, you know.

Hamilton

Q. Okay.

[redacted]

A. And then it got quiet. I figured it was all over.

Hamilton

Q. Okay.

[redacted]

A. And I get up and I walk over towards the steps again and I look, and there he was, laying on the floor and the deputies all around him. And that's when another officer yelled, told me, looked up and seen me standing there a couple feet away from him and told me to get the fuck away from him again. And at that time...

Hamilton

Q. Let's stop right there. You said that you walked up. Where did you walk to?

[redacted]

A. Right back to the top of the steps.

Hamilton

Q. Okay. When you walked to the top of the steps and you looked down...

[redacted]

A. Right.

Hamilton

Q. ...where were the deputies and where was the (inaudible)...

[redacted]

A. They were standing right next to the man.

Hamilton
Q. Standing next to him?

[redacted]
A. Right by him.

Hamilton
Q. Okay. Where was the inmate?

[redacted]
A. Where was the inmate?

Hamilton
Q. Yeah.

[redacted]
A. At the bottom of D row step, steps.

Hamilton
Q. Where was...

[redacted]
A. At the gate.

Hamilton
Q. Where was his head facing, which direction?

[redacted]
A. His, his head was facing between the shower and the mop room.

Hamilton
Q. Between the shower and the mop room?

[redacted]
A. Right. That, the mop room door and the shower. Wasn't at the door. It wasn't at the shower. It was...

Hamilton
Q. Okay, (inaudible) right in between.

[redacted]
A. ...an angle. Yeah (inaudible)...

Hamilton
Q. And where was his feet?

[redacted]
A. His feet? Damn, down where they're supposed to be?

Hamilton
Q. (inaudible)

[redacted]
A. They're suppose to be right in front of him. They were on his side. Kicked to the side, like that.

Hamilton
Q. Okay. When you say to the side...

[redacted]
A. His knees were bent. Both feet are kicked to the side underneath him at one angle, like that.

Hamilton
Q. Was he handcuffed?

[redacted]
A. He had to have been.

Hamilton
Q. No. Did you, did you see...

[redacted]
A. I couldn't see. He was laying on the back...

Hamilton
Q. So you don't know if he was handcuffed...

[redacted]
A. He was laying on his hands. Looked hog-tied to tell you the truth.

Hamilton
Q. Okay. And what do you mean by that?

[redacted]
A. He looked hog-tied. He looked like he had his hands behind his back and his feet were restrained, hog-tied.

Hamilton
Q. Okay, but you didn't actually see any cuffs?

[redacted]
A. No, I didn't actually see that, no.

Hamilton
Q. Did you see any, did you see any restrains on his feet or anything?

[redacted]
A. He was laying on top of his hands.

Hamilton
Q. He was laying on top, so was he on his back? Okay, now you said he was on his back and his feet kicked out to the side.

[redacted]
A. Yeah.

Hamilton
Q. Okay. And, and, his feet were coming back towards him, bent back towards him?

[redacted]
A. Back towards him, right.

Hamilton
Q. Okay.

[redacted]
A. And his, his hands were behind him, like this, and his feet were like this.

Hamilton
Q. Okay. Have you ever seen anyone hog-tied?

[redacted]
A. Yes, I have.

Hamilton
Q. How many times?

[redacted]
A. Quite a few times.

Hamilton
Q. In here, as well as out in the streets?

[redacted]
A. Out in the streets. Lots of times (inaudible)...

Hamilton
Q. Okay, so you would be familiar with someone being hog-tied.

[redacted]
A. It looked like a leather lasso set-up, but I'm not sure. I couldn't say. I, I couldn't say.

Hamilton
Q. Okay. So he appeared to be hog-tied to you.

[redacted]
A. Right.

Hamilton
Q. Where were the deputies at? Were they all standing up? Were they kneeling? Were they, where were they?

[redacted]
A. Standing around him at the time.

Hamilton
Q. Were they all the way around him? Were they standing in front of him? Back behind him...

[redacted]
A. There was, that, that, that, that time, he was, there was, the shower bars, right? Are you familiar with?

Hamilton
Q. Right.

[redacted]
A. It was him, and the deputies in a circle around him.

Hamilton
Q. Okay, a semi-circle.

[redacted]
A. Yeah, between the mop room door and the D gate. One, one was all the way in front of the D gate 'cause that's the one that yelled at me. He was blocking the D gate.

Hamilton
Q. Right.

[redacted]
A. And there was other ones all around him and there was one by the mop room door.

Hamilton
Q. Okay, so...

[redacted]
A. 'Cause there was nowhere for him to go after that.

Hamilton
Q. Were they, were there any deputies behind him? Close up against the, the shower gate?

[redacted]
A. Not to my recollection.

Hamilton
Q. So basically, you're saying they all were in front of him, somehow (inaudible)...

[redacted]
A. Yeah, 'cause he couldn't go nowhere 'cause it was just bars right behind him.

Hamilton
Q. Right. This deputy that told you to, to go back down the row, what did he look like?

[redacted]
A. Dark hair...

Hamilton
Q. White, black, Hispanic?

[redacted]
A. ...uniform. Could have been Hispanic. Could have been Hispanic.

Hamilton
Q. Could you identify him if you saw him again?

[redacted]
A. Yeah, probably. Probably not. I don't know. I, it's been awhile.

Hamilton
Q. Alright. The guy told you to go down, did you see any bleeding? See this guy bleeding at that point?

[redacted]
A. There was blood on the floor, but I didn't know what it, where it came from, how it got there. It could've been an officer. You know what I mean?

Hamilton
Q. Okay. Was it a lot of blood? A little blood? A moderate amount?

[redacted]
A. Yeah, it was, it was thick blood. Thick blood.

Hamilton
Q. Okay, where was it?

[redacted]
A. It was all over the floor. Because, afterwards when I had to come and clean it up, it was thick. It was, you know, it was like, it was not, maj-, maj-, major amount, you know, like an arterial damage or something like that. But it was, it was thick blood.

Hamilton
Q. Okay. So, when you went down there the second time, you saw blood, where?

[redacted]
A. On the floor. I, you know, I really didn't, I really didn't have much...

Hamilton
Q. Did you see any on the wall?

[redacted]
A. ...time to look.

Hamilton
Q. Okay.

[redacted]
A. Because I'm standing, looking, I'm thinking, "Oh man, I walked up at the wrong time because, I'm next for the ass whoopin'," I'm thinking.

Hamilton
Q. Did you see any on the wall?

[redacted]
A. No. But I remember cleaning it up.

Hamilton
Q. Okay, but now I'm just saying (inaudible)...

[redacted]
A. On the wall, I didn't see any cleaning up, I remember cleaning on the wall. I remember cleaning it on the floor. Me and [redacted] were cleaning it up off the floor with a wet towel.

Hamilton
Q. Were the deputies saying anything to this inmate when you walked up there again to...

[redacted]
A. Yeah, they was talking shit to him.

Hamilton
Q. Like what?

[redacted]
A. I, I don't remember the words. They was talking shit. Just normal man on man stuff, you know.

Hamilton
Q. Okay.

[redacted]
A. You...

Hamilton
Q. How was the inmate?

[redacted]
A. He was hog-tied, be, kind of, his eyes was open and he, he looked totally restrained.

Hamilton
Q. Was he talking? Was he...

[redacted]
A. Yeah, he was kind of crying, I think. Upset, you, you know, like, let me see, saying something. I don't remember. It didn't, in and out of coherency. You know what I mean? He was, really wasn't making any sense, but, you know.

Hamilton
Q. Okay. Okay, what...

[redacted]
A. There was no, see, the only other people there was at that time, was the dude in the shower had direct view.

Hamilton
Q. Okay. We'll, we'll deal with him in a second. Okay, this inmate, did he, was he loud? Was he quiet? Was he...

[redacted]
A. (inaudible)...

Hamilton
Q. You said that he looked like he was crying, but he loud about it? Was he quite?

[redacted]
A. I heard some yelling, then they was quiet, and, you know, I didn't have...

Hamilton
Q. (inaudible)...

[redacted]
A. Usually somebody like that, you hear somebody beg, "hey, hey, hey, alright, alright, leave me alone, alright, alright, alright, alright." You know what I mean? I didn't hear none of that.

Hamilton
Q. No, I'm talking about when you walked up to the gate the second time.

[redacted]
A. He was subdued completely.

Hamilton
Q. Was he quiet? He was quiet?

[redacted]
A. And his eyes was big as, bad, I felt bad for the man that was laying there.

Hamilton
Q. Okay. But was he quiet? Did or was...

[redacted]
A. Yes.

Hamilton
Q. ...he making a lot of noise or...

[redacted]
A. Yeah, he was. At that time, no noise. He said something. Did something. I can't remember what, but I don't, I don't remember exactly.

Hamilton
Q. Okay, but he had, for the most part, he'd, he wasn't making...

[redacted]
A. No, no.

Hamilton
Q. ...noise?

[redacted]
A. No, not at that time.

Hamilton
Q. Okay. Did he appear to be in any pain or anything?

[redacted]
A. Yes.

Hamilton
Q. What do you mean?

[redacted]
A. He, he appeared, his eyes, I see a lot of white from his eyes, fear.

Hamilton
Q. Okay.

[redacted]
A. Maybe not fear of the deputies 'cause obviously he was fightin'...

Hamilton
Q. Okay.

[redacted]
A. And it was fear he was hurt.

Hamilton
Q. Okay.

[redacted]
A. Fear of gettin an ass whoppin' he gonna to get.

Hamilton
Q. Fine, but you, you're just, you're just assuming. I just asked you...

[redacted]
A. Well, I...

Hamilton
Q. ...did he appear to be in, in any pain?

[redacted]
A. Yeah, there's a lot of (inaudible)...

Hamilton
Q. Was he moaning or groaning or...

[redacted]
A. Yeah, a little bit. Then he looked dazed. He looked dazed.

Hamilton
Q. Okay.

[redacted]
A. Incoherent, mumbling, saying something. I don't remember what.

Hamilton
Q. Okay.

[redacted]
A. He looked injured.

Hamilton
Q. Anything else? Before you left? You notice any deputies doing anything to him? Did any of the deputies...

[redacted]
A. They...

Hamilton
Q. ...kick him, punch him, spit on him?

[redacted]
A. Well I remember some kicks. I remember a lot of body blows. I'm hearing 'em. I don't see them.

Hamilton
Q. Okay. I'm talking about when you walked up there to...

[redacted]
A. When I walked up there, there was deputies in the circle, one to the left. I guess they were deciding what to do. I'm guessing now, what to do. The one standing against the D gate, one by the mop room door, that was the one doing the kicking.

Hamilton
Q. Right. What did he look like?

[redacted]
A. White, mid-size.

Hamilton
Q. How tall?

[redacted]
A. 5'10", 5'8". I, you know, that's kind of rough, you know.

Hamilton
Q. How much did he weigh?

[redacted]
A. I couldn't tell you.

Hamilton
Q. Did he look mas, muscular to you (inaudible)...

[redacted]
A. No, no. He looked, well you know these sheriffs. They wear these tight-ass uniforms, trying to look big.

Hamilton
Q. I don't know. Some of 'em do. Some of 'em don't.

[redacted]
A. Some are pretty big, too.

Hamilton
Q. Right. Well...

[redacted]
A. I'd say 170, 180.

Hamilton
Q. Okay, was he white, Hispanic, or...

[redacted]
A. He's white.

Hamilton
Q. ...Asian? White? Has a moustache?

[redacted]
A. I couldn't tell you.

Hamilton
Q. Know what color his hair was?

[redacted]
A. Light-ish, brownish.

Hamilton
Q. Light brownish?

[redacted]
A. Brownish, yeah, light.

Hamilton
Q. Was it long or short?

[redacted]
A. Well, definition of long?

Hamilton
Q. Yours is long.

[redacted]
A. Oh, yes?

Hamilton
Q. Mine is short.

[redacted]
A. That's bald.

Hamilton
Q. No, some on the sides.

[redacted]
A. Average there, is sheriff cut, neat cut, you know. They wear 'em, any, anyway...

Hamilton
Q. (inaudible) I'm talking about him. I'm talking (inaudible)...

[redacted]
A. Anyway it's cut...

Hamilton
Q. Is it, was it full on the top and sides, or was it cut like a...

[redacted]
A. I couldn't tell you.

Hamilton
Q. ...Marine? Oh, okay.

[redacted]
A. I couldn't tell you. High and tight, it could be. It could've been...

Hamilton
Q. Did he have a long sleeve shirt on or short sleeve?

[redacted]
A. I couldn't tell you.

Hamilton
Q. You don't know his name, do you?

[redacted]
A. No, no.

Hamilton
Q. You ever seen him before?

[redacted]
A. Might have.

Hamilton
Q. Okay.

[redacted]
A. And the again, I can't say.

Hamilton
Q. Okay, and then the deputy tells you to go back, right?

[redacted]
A. Yes, "Get the fuck out of here."

Hamilton
Q. Where'd you go?

[redacted]
A. I went back down to 10.

Hamilton
Q. Okay.

[redacted]
A. Get out of the way.

Hamilton
Q. Then, then what happened?

[redacted]
A. Then there's commotion, this and that. Because I was afraid I was gonna get beat up because I seen something.

Hamilton
Q. What does commotion mean?

[redacted]
A. Movement.

Hamilton
Q. Such as?

[redacted]
A. Such as, I wasn't paying attention.

Hamilton
Q. So, you just heard noise.

[redacted]
A. Well I heard some more noise and movement, bang-bang, moved and front gate pop open, and I looked up again, they were leaving.

Hamilton
Q. Okay, so you don't, you...

[redacted]
A. Then I went down to the end of the tier and I cleaned up the blood.

Hamilton
Q. Okay, well, let's back up. So, you went back down there and you heard some noise. How long did that noise last, approximately?

[redacted]
A. Well I'd say I sat down there a good another 5, 10 minutes maybe.

Hamilton
Q. Okay. And did you hear anybody punching or screaming or yelling or doing any...

[redacted]
A. At that moment, not as much as before. No, I couldn't say that. The first time, yes, it was definitely ass-whoopin' time.

Hamilton
Q. Okay.

[redacted]
A. After that, was movement time, like the noise I heard was like cart, stretcher or whatever it was, get him out of there.

Hamilton
Q. Okay, okay. So it was basically over. You did not see...

[redacted]
A. Right.

Hamilton
Q. ...any deputies walk, from where you were sitting at 9 or 10, see any deputies doing anything to this guy, right?

[redacted]
A. At that time, no.

Hamilton
Q. Okay.

[redacted]
A. At the second, no. The first time, yes.

Hamilton
Q. Okay. And...

[redacted]
A. Then again, you know, I, then...

Hamilton
Q. ...then what happened?

[redacted]
A. ...I made it a point not to look the second time 'cause I was...

Hamilton
Q. And then what happened?

[redacted]
A. ...afraid of 'em. And then I came down the tier, as I came down the tier after they were taking him out...

Hamilton
Q. Did they ask you to come down the tier, or what did you...

[redacted]
A. No, I was just coming down the tier. They didn't say shit to me.

Hamilton
Q. Okay.

[redacted]
A. When I come down the tier, [redacted] was down there. He got some towels...

Hamilton
Q. Who?

[redacted]
A. The [redacted] that was there.

Hamilton
Q. Who was the [redacted]?

[redacted]
A. I don't know. Another, an early morning trusty.

Hamilton
Q. The other guy is [redacted] right?

[redacted]
A. Yeah, fat boy, [redacted].

Hamilton
Q. Yeah, well you know who he is.

[redacted]
A. Yeah, yeah.

Hamilton
Q. Okay.

[redacted]
A. He was over, stuck up on C gate upstairs.

Hamilton
Q. Okay.

[redacted]
A. At a blind angle. Know what I mean? But he could...

Hamilton
Q. Right.

[redacted]
A. After he was down, then he could (inaudible)...

Hamilton
Q. Okay, well we'll be talking about him. But we're talking about you.

[redacted]
A. And, and then he come down and there was blood on the floor, he threw towels down there and then we started cleaning up the mess. And it was enough to soak up some towels.

Hamilton
Q. Okay. What did you do with the towels?

[redacted]
A. We threw 'em in a bag and they came in and told us to rid of 'em, so we got rid of 'em.

Hamilton
Q. Where'd you get rid of them?

[redacted]
A. Threw them in the elevator landing.

Hamilton
Q. Okay. Did someone tell you to do that?

[redacted]
A. Yeah, of course.

Hamilton
Q. Who?

[redacted]
A. I don't know who.

Hamilton
Q. Was it...

[redacted]
A. ...(Inaudible) to clean up. That's your job. Clean up. Get rid of 'em.

Hamilton
Q. Did they tell you or did they tell the other inmate to do that and you just followed behind the other (inaudible)?

[redacted]
A. I'm, I'm just following.

Hamilton
Q. Okay. So no one...

[redacted]
A. I just got the job.

Hamilton
Q. ...told you directly to clean up. You just went down there and you saw the other inmate cleaning up, so...

[redacted]
A. There was blood all over the place. Yeah, I was cleaning up.

Hamilton
Q. So you helped him out.

[redacted]
A. Yeah.

Hamilton
Q. So, no deputy actually told you to clean up.

[redacted]
A. Right.

Hamilton
Q. Alright. Did you talk to any deputies after that?

[redacted]
A. Yes, I did.

Hamilton
Q. Who'd you talk to?

[redacted]
A. Let me see. I think it was, Epp?

Hamilton
Q. Deputy Epp?

[redacted]
A. Yeah, that's who fired me in the morning.

Hamilton
Q. Okay, and what'd you talk to him about?

[redacted]
A. Oh, I didn't talk to him, not, nothing. That's who I was saying who fired me, no. It was, it was the, alright, right after that incident happened, two officers came in asking my name and Mexican's name that, we were standing there (inaudible)...

Hamilton
Q. Right after the incident happened, or when you while you were cleaning up?

[redacted]
A. ...a little while. Yeah, after we cleaned up, right, put everything away. We was all cleaned up. We were kickin' back, doing our thing, you know. And a little while later, couple deputies came in the door.

Hamilton
Q. Okay.

[redacted]
A. They said, "Hey, what's your name?" So, they wrote my name. What's yours, what your name, like that. We want to know this for

later.

Hamilton
Q. Alright.

[redacted]
A. And then they left.

Hamilton
Q. Anybody ask you what happened?

[redacted]
A. Oh, yeah. I said I didn't see nothing.

Hamilton
Q. When did they ask you?

[redacted]
A. Right then.

Hamilton
Q. Right then, when?

[redacted]
A. When they asked me my name.

Hamilton
Q. Okay, and what deputy was that?

[redacted]
A. I don't remember.

Hamilton
Q. Have you ever seen that deputy before?

[redacted]
A. Yes, I have.

Hamilton
Q. Okay. What does he look like?

[redacted]
A. Six foot, Mexican.

Hamilton
Q. Okay. Beard or moustache? Obviously, not...

[redacted]
A. Yeah, it was a moustache.

Hamilton
Q. ...a beard.

[redacted]
A. Yeah. Had a moustache, short hair. They all look the same. All officers look the same. I mean black, white, Mexican, they're all clean, neat. They present themselves properly like they're supposed to.

Hamilton
Q. Some people have tattoos and scars, others...

[redacted]
A. I, I didn't notice. I wasn't into all that.

Hamilton
Q. ...long hair versus short (inaudible)...

[redacted]
A. I notice uniforms, that's all I notice. I pay no attention, unless it's an outstanding tattoo on the face or the arm, I might notice that.

Hamilton
Q. How about stripes?

[redacted]
A. No stripes, they had no stripes. I noticed that.

Hamilton
Q. So they asked you what happened and you told them what?

[redacted]
A. I didn't say anything.

Hamilton
Q. Okay, and that happened after you cleaned up?

[redacted]
A. Right.

Hamilton
Q. How much--how long after--

[redacted]
A. --I don't know, a couple hours--hour.

Hamilton
Q. Hour?

[redacted]
A. It was--it was a length of time, and then in the morning.

Hamilton
Q. Where were you when they contacted you?

[redacted]
A. Standing right there--the same spot where the--where the--the guy was put on the wall in the first place. Right by the laundry room, little--

Hamilton
Q. --Okay--

[redacted]
A. --fenced off thing there, I was standing right there.

Hamilton
Q. Okay.

[redacted]
A. Me and [redacted].

Hamilton
Q. You ever see the sergeant that night?

[redacted]
A. No.

Hamilton
Q. How about the senior?

[redacted]
A. No.

Hamilton
Q. Okay, and you said--you went to go clean up, how much--how much longer did it take after you heard the commotion, you know, was over--

[redacted]
A. The movement commotion?

Hamilton
Q. Yeah, and you were down in cell 9, how much longer did it take between--what time did it take between the time of the end of the commotion to the time that you started cleaning up?

[redacted]
A. Not much at all. When I came down the tier--clean up--[redacted] was starting to clean up.

Hamilton
Q. So the second time that you went back down to cell 9 or 10, you said that you were there for about five or ten minutes, correct?

[redacted]
A. Yeah, about that, I'm guessing--

Hamilton
Q. --Approximately--

[redacted]
A. Yeah, approximately.

Hamilton
Q. You know, give or take a minute or two--

[redacted]
A. Or few, yeah.

Hamilton
Q. And then you went back down.

[redacted]
A. And everybody was gone.

Hamilton
Q. And--and then you started cleaning, correct.

[redacted]
A. Right, I looked down in the tier--'cause I looked down in the tier and I seen [redacted] over there and I know he wouldn't be there--

Hamilton
Q. --Right--

[redacted]
A. --unless everybody was gone, gone. 'Cause I'm not--I'm telling you I'm not stepping back down there 'cause if they're in a mood like that to be stomping on somebody like they was doing--

Hamilton
Q. --Uh-huh--

[redacted]
A. --I'm--I'm--I'm not--I'm not throwing myself in there for meat.

Hamilton
Q. Okay, okay, did you see anybody in the booth?

[redacted]
A. No, I didn't see anybody in the booth.

Hamilton
Q. Okay.

[redacted]
A. I--there could've been, you know, I--I didn't pay attention.

Hamilton
Q. Okay, and you said that you saw--there was an inmate in the shower. How did you know that?

[redacted]
A. Because he was on the tier earlier.

Hamilton
Q. Okay, what did he look like?

[redacted]
A. Blonde youth, youngster, about--well, maybe not a youngster. Well, he was about--you can't really tell, twenty something--in his twenties.

Hamilton
Q. Uh-huh.

[redacted]
A. About six foot.

Hamilton
Q. How'd you know he was in the shower though?

[redacted]
A. He was up--I wasn't quite positive where they put him.

Hamilton
Q. Okay, so you don't know if he was there or not.

[redacted]
A. He--he was down there.

Hamilton
Q. How do you know that?

[redacted]
A. Because he was moving somewhere. He was going somewhere. You know how when you--they pull you out and (inaudible) they load the showers up (inaudible)

Hamilton
Q. What--what I'm asking you--

[redacted]
A. --How do I know for sure?--

Hamilton
Q. What I'm asking you, Mr. [redacted] is did you know--did you see him in that cell or are you just assuming that's where he was, 'cause he may not have been there.

[redacted]
A. Oh, he was in the shower.

Hamilton
Q. Okay, did you see him?

[redacted]
A. Yeah.

Hamilton
Q. Where did you see him at?

[redacted]
A. When I was working. They called certain people out for transfers, early morning, right?

Hamilton
Q. Okay.

[redacted]
A. And they go, "Okay, you go in the shower. You do this and that." That's when the black gentleman came out.

Hamilton
Q. Okay.

[redacted]
A. And he was out and I 'member (inaudible), "What the hell you doing out your house?" looking down at him from the top tier.

Hamilton
Q. Uh-huh.

[redacted]
A. And I hear raar-raar-raar, the speakers--they're cheap speakers.

Hamilton
Q. Uh-huh.

[redacted]
A. (Inaudible) I guess maybe the dude in the booth called but I'm thinking it was the guy in the booth came outside and did this to this guy.

Hamilton
Q. Okay.

[redacted]
A. That's what I--

Hamilton
Q. --But you don't know.

[redacted]
A. No, I don't know, but that's what I was thinking.

Hamilton
Q. All right, did you see that officer that night in the booth?

[redacted]
A. I seen an officer that night in the booth. He never came back, I'll tell you that much.

Hamilton
Q. Okay, getting back to this inmate. Did you see him in the shower or not, during the altercation?

[redacted]
A. Yeah, when I was cleaning up, he was in the shower.

Hamilton
Q. Okay, but I said during the altercation.

[redacted]
A. Well no, I can't say that. No, you're right.

Hamilton
Q. Okay.

[redacted]

A. 'Cause when I was cleaning up--but I'll tell you what, they're sure not gonna tell him--there was nobody on the tiers, nobody in the hallways, nobody nothing, and when I went down to clean up, he was standing at the bars, looking at me like that, okay?

Hamilton

Q. But you didn't see him during the altercation?

[redacted]

A. No, you're right, I--

Hamilton

Q. --Okay--

[redacted]

A. --you're right, correct.

Hamilton

Q. He could've--I--I don't know. He could've been, for whatever, he could've been placed in there afterwards. I don't know.

[redacted]

A. Yeah--

Hamilton

Q. --Anything's possible--

[redacted]

A. --anything's possible, yes, but not likely so.

Hamilton

Q. Okay, but you did not--I'm asking you, did you see him during the altercation--

[redacted]

A. --No, during the altercation I was not looking in the shower, no.

Hamilton

Q. Did you see any other person in there--in the module--

[redacted]

A. That could have seen it?

Hamilton

Q. That could have seen it, the incident.

[redacted]

A. The closest person that could have seen it was [redacted] and-- and his view was quite a bit farther than mine.

Hamilton

Q. Okay, now, you also mentioned earlier in the interview that you saw somebody by the phone?

[redacted]

A. Yes.

Hamilton

Q. Who was that?

[redacted]

A. A big old fat black dude.

Hamilton

Q. What's his name?

[redacted]

A. I don't remember what they call him, Tank or something, I don't know what they call him.

Hamilton

Q. What was he doing?

[redacted]

A. On the phone.

Hamilton

Q. Why was he out?

[redacted]

A. Pay phone, that's his--that's the one privilege for being a--a tier tender is to use the pay phone.

Hamilton
Q. A--a tier what?

[redacted]
A. Tier tender, you know, module trusty.

Hamilton
Q. Okay, was he--what shift was he working?

[redacted]
A. He worked p.m.'s, I guess.

Hamilton
Q. Okay.

[redacted]
A. He's a fairly likable gentleman.

Hamilton
Q. Okay, and you say--what happened to him?

[redacted]
A. Well, when I come on, he busted out the door.

Hamilton
Q. Okay, could you see that he went out the door?

[redacted]
A. No, I couldn't see but that's what [redacted] told me he did.

Hamilton
Q. Okay, so you don't know.

[redacted]
A. Yeah, well he--where else could he go. See, when you come in all the gates are locked. There's nowhere to go in there.

Hamilton
Q. Right.

[redacted]
A. Nowhere to go. All the gates are locked. He's on the phone. I come off my tier and I'm cleaning Denver row tier. I go by, fat boy's on the phone.

Hamilton
Q. Okay.

[redacted]
A. You know--

Hamilton
Q. --So did--did you see him during the altercation?

[redacted]
A. No, he was gone.

Hamilton
Q. Okay.

[redacted]
A. And after the altercation's done and everything, he was gone. There was nobody. The door was open, the phone was hanging--

Hamilton
Q. --But you're assuming he went out the door--

[redacted]
A. Yes--

Hamilton
Q. --but you don't know.

[redacted]
A. Yes, where else he gonna go?

Hamilton
Q. Well, isn't there a storage room right there?

[redacted]
A. Yeah, but that's locked. I'm sure.

Hamilton
Q. Okay, but you don't know.

[redacted]
A. See, there's two storage rooms.

Hamilton
Q. I know.

[redacted]
A. There's a laundry room--

Hamilton
Q. One--one--one right across from the phone, correct?

[redacted]
A. Right across from the phone, right.

Hamilton
Q. Yeah, so you didn't--you didn't actually see him go out the door.

[redacted]
A. No.

Hamilton
Q. Did you see him stand around watching the deputy fight this guy?

[redacted]
A. No.

Hamilton
Q. Okay, so you didn't--did you see anyone else in there that possibly could be a witness?

[redacted]
A. Just--maybe Denver one.

Hamilton
Q. Okay.

[redacted]
A. Denver One, but from their angle, you know how they gotta look out the door, they got this much view. But that's about plenty view--

Hamilton
Q. --Okay, did you see anybody else in there that could see that?

[redacted]
A. [redacted].

Hamilton
Q. You don't know if [redacted] could 'cause--

[redacted]
A. --Right--

Hamilton
Q. --you didn't actually see [redacted] either--

[redacted]
A. --No, at that moment, nobody could see shit really but me, I guess.

Hamilton
Q. You talked to inmates about this after?

[redacted]
A. No.

Hamilton
Q. You talked to [redacted] correct?

[redacted]
A. Well, at that time, yes. And now he don't even--he won't even talk to me no more.

Hamilton
Q. Okay.

[redacted]
A. I say, "So, what's up?" in the hallway and he won't talk to me.

Hamilton
Q. You talk to any other inmate--any other inmates about this?

[redacted]
A. I've said something to them, but not--not description, I said, man, I said, they asked me, "What was these police doin,'" these officers mostly. "What them guys want with you?"

Hamilton
Q. Who'd you--who'd you talk to?

[redacted]
A. A few of them. They want to know--

Hamilton
Q. --I'm talking about that night, right after that happened, did you talk to anybody about what happened?

[redacted]
A. Yeah, I talked to my old lady about it.

Hamilton
Q. Okay, what's her name?

[redacted]
A. [redacted].

Hamilton
Q. [redacted] what?

[redacted]
A. [redacted].

Hamilton
Q. [redacted] what--what's her date of birth?

[redacted]
A. Her date of birth, [redacted].

Hamilton
Q. Okay, where does she live?

[redacted]
A. [redacted].

Hamilton
Q. Where?

[redacted]
A. On [redacted].

Hamilton
Q. What's the address?

[redacted]
A. [redacted].

Hamilton
Q. What's her phone number?

[redacted]
A. [redacted].

Hamilton
Q. What area code?

[redacted]
A. [redacted], what, I don't know.

Hamilton
Q. I--I didn't say zip code, I said area code.

[redacted]
A. Oh--oh, that's [redacted].

Hamilton
Q. 213, 310?

[redacted]
A. That's [redacted] yeah.

Hamilton
Q. All right, anybody else?

[redacted]
A. Yeah, my lawyer.

Hamilton
Q. Okay, I'm talking about that night.

[redacted]
A. Oh, that night. Just her.

Hamilton
Q. You talked to your old lady that night?

[redacted]
A. No, no, not that night, no.

Hamilton
Q. Okay.

[redacted]
A. It's like this, I've talked--who I've talked to about that. That night, who I talked to about?

Hamilton
Q. Right, or didn't you talk to anybody about it?

[redacted]
A. I've talked to several people about it.

Hamilton
Q. Such as--that night.

[redacted]
A. Oh, that night--oh no, I didn't even talk to the old lady that night, no.

Hamilton
Q. How about, okay.

[redacted]
A. That night I talked to [redacted] about it.

Hamilton
Q. Okay.

[redacted]
A. That's about it, I guess.

Hamilton
Q. Okay.

[redacted]
A. I didn't talk to fat boy.

Hamilton
Q. Anything else that you can think of?

[redacted]
A. Just my personal feelings. Can I say my personal feelings?

Hamilton
Q. You can tell me afterwards, I just want to know anything else on this particular case (inaudible)

[redacted]
A. Yeah, that's what I'm saying about the personal case, but my personal feelings about what I observed.

Hamilton
Q. Uh-huh.

[redacted]
A. It looked pretty much above board, all right?

Hamilton
Q. Uh-huh.

[redacted]

A. It looked pretty good until the kicking part, but when I came down and looked and seen the man, now I can't say I seen mechanical restraints on the man or not, but he was on the floor, not moving, with his feet--he looked restrained to me and I've been through it many times as you have, so if you're an officer and I'm an inmate, I've been through it many times and you--they came and asked you, "Did the man look restrained?" and you say, "Yes, I think he was but I couldn't say for sure" they're gonna believe whichever I'm saying. Yes, I think for sure the man was restrained.

Hamilton

Q. Okay.

[redacted]

A. I think for sure that they were beating him beyond they were supposed to.

Hamilton

Q. But you--you never saw when they put the restraints on him.

[redacted]

A. No sir, I didn't.

Hamilton

Q. And you don't know if he--actually when you saw this kicking motion, if the guy was restrained or not at the time. You did not see--

[redacted]

A. --Yeah, right, it could've been--it could've been he had a been like that and he's fightin'--

Hamilton

Q. I'm just simply saying, you--did you or did you not see--

[redacted]

A. --No.

Hamilton

Q. Okay, and did you actually see the de-, deputies kicking this inmate?

[redacted]
A. Yes.

Hamilton
Q. You actually saw a deputy's foot making connection--

[redacted]
A. --Yes.

Hamilton
Q. What part--

[redacted]
A. --Not connection, kicking, I seen the motion and I heard it.

Hamilton
Q. Okay--

[redacted]
A. But I could not see his body.

Hamilton
Q. Okay, so that's what I'm asking--

[redacted]
A. --There could've been another deputy down there wrestling with him trying to handcuff him.

Hamilton
Q. You actually didn't see the--the deputies making contact with this inmate?

[redacted]
A. Oh, this is a word game here.

Hamilton
Q. Okay.

[redacted]
A. It's a word game.

Hamilton
Q. No, I'm just asking you. Did you or did you not see the deputies actually making contact? I understand what you're saying--

[redacted]
A. --His foot actual, no--

Hamilton
Q. --you're saying you saw--you saw the kicking motion and you heard what--what appeared to be connection with the body, correct?

[redacted]
A. Yes, and yelling.

Hamilton
Q. What--what I'm asking you is did you actually see with your eyes, okay, and that's fine, you can--you have other senses that you can deal with, hearing--

[redacted]
A. --Yes--

Hamilton
Q. --your experience. I understand that.--

[redacted]
A. --Right here--

Hamilton
Q. --I understand that, you know, did you actually see the deputies kicking this inmate?

[redacted]
A. Physical contact?

Hamilton
Q. Make--making contact with--this inmate?

[redacted]
A. --No, I did not.

Hamilton
Q. Okay, do you know where this person was kicked--if he was in fact kicked, do you know where--what part of the body?

[redacted]
A. From the direct-, from the direction his head was laying--the direction when he was laying when I came up and looked and the way the officer was kicking, it had to be up around the upper rib--upper rib, shoulder and head area--

Hamilton
Q. --Okay, but--

[redacted]
A. --It had to have been.

Hamilton
Q. Also, about the time--okay, because--

[redacted]
A. --But there was time in between.

Hamilton
Q. The reason you're saying that is because by the time you got up to the--to the top of the stairs--

[redacted]
A. --The way he was laying--

Hamilton
Q. --his position and the deputy's position but no-, nothing is to say that this inmate didn't change his position--

[redacted]
A. --This is true--

Hamilton
Q. --prior to you going up there, right?

[redacted]
A. This is true, but this is also true, too. If the man was not physically restrained at the moment of the time of the kicking, there would be more than one deputy on him because the deputies

that came in were all standing up and watching.

Hamilton
Q. Okay.

[redacted]
A. They were watching him, so if he was not restrained they would not be watching, through my past experiences. They would be all on him still. There would be a mass commotion and noise. It was quiet. It was obvious he was restrained already and they were kicking him.

Hamilton
Q. Okay, did you see how the deputy--the inmate got injured?

[redacted]
A. No, I didn't, sir.

Hamilton
Q. Did you see any injuries on this inmate?

[redacted]
A. No, I didn't, sir.

Hamilton
Q. Okay, all right, anything else?

[redacted]
A. Just, no, just my personal opinion but it--

Hamilton
Q. --And that's fine, and I don't have a problem with your personal opinion. I just, but I like to deal with facts.

[redacted]
A. Yeah.

Hamilton
Q. And that's--that's--that's what we're gonna deal with in court--

[redacted]
A. --All right--

Hamilton
Q. --that's what attorneys like to deal with. I mean, you know, I'm not--

[redacted]
A. I understand.

Hamilton
Q. --telling you anything new, so, you know--

[redacted]
A. --I've been through it--

Hamilton
Q. --Right, and--and I give you that. Okay, prior to coming on tape we talked about certain things, correct?

[redacted]
A. Yes.

Hamilton
Q. Okay, we talked about--that you and I and my partner, my unit--or the Sheriff's Department had an agreement with you prior to coming on tape. We discussed that, correct?

[redacted]
A. Yes.

Hamilton
Q. And what was that agreement?

[redacted]
A. Pertaining to what agreement?

Hamilton
Q. As far as what we will do.

[redacted]
A. Oh, the $20,000 you were gonna give me?

Hamilton
Q. Yeah, right.

[redacted]
A. (Laughs)

Hamilton
Q. Sorry, you're in trouble, but anyway go ahead.

[redacted]
A. Yeah, it's a joke. That--that they'd come down and speak to the D.A. on my behalf.

Hamilton
Q. Okay, that my--myself or my partner, some representative from my unit would come down and talk to the D.A. and basically say that you provided information on a criminal investigation--that you cooperated with us in this particular investigation, correct?

[redacted]
A. Yes.

Hamilton
Q. And that we--I talked to your attorney, what's her name?

[redacted]
A. Karen Lockhart.

Hamilton
Q. Karen Lockhart, and that I told her that I would go down to the District Attorney who's handling your particular case and speak to him and tell him that you provided us with information, correct?

[redacted]
A. Yes, correct.

Hamilton
Q. Is there anything else that we--

[redacted]
A. I would--I would like to ask you--

Hamilton
Q. --No, I asked you if there's anything else that we agreed upon.

[redacted]
A. No.

Hamilton
Q. Okay.

[redacted]
A. No.

Hamilton
Q. Let me--let me ask you, what--what are you in jail for this time?

[redacted]
A. Drugs.

Hamilton
Q. What kind of drugs?

[redacted]
A. Speed.

Hamilton
Q. Okay, possession for sales?

[redacted]
A. The downfall of my life.

Hamilton
Q. Okay, can you tell us something about your criminal history, just summarize it.

[redacted]
A. Summarize it. I've had quite a few juvenile cases but up to the age of 30 years old, I only had one felony conviction my whole life.

Hamilton
Q. Okay, aren't you on your third strike right now, looking--

[redacted]
A. --No, second--

Hamilton
Q. --for 25 to life--

[redacted]
A. --second strike.

Hamilton
Q. Didn't you tell me the first time we met that you were looking at second--25 to life?

[redacted]
A. No, I got--I--they offered me a four year, four month deal which I accepted.

Hamilton
Q. Okay, how--how many times have you been arrested?

[redacted]
A. Well see--was arrested or--?

Hamilton
Q. --Arrested--

[redacted]
A. Convicted?

Hamilton
Q. Arrested.

[redacted]
A. One felony conviction my whole life--

Hamilton
Q. --arrested--

[redacted]
A.	--up until 1990, now I have three.

Hamilton
Q.	Arrested, how many--?

[redacted]
A.	Oh, I couldn't tell you arrested, see, that's not fair, that's an unfair statement.

Hamilton
Q.	Well, give me a guess, I mean, I have your rap sheet right here.

[redacted]
A.	Quite a few.

Hamilton
Q.	Well, 5, 10.

[redacted]
A.	Oh, more than that.

Hamilton
Q.	15, 20?

[redacted]
A.	I would say 20.

Hamilton
Q.	Okay, and you said you had one felony--

[redacted]
A.	--One felony conviction my whole life up until 1930--

Hamilton
Q.	--Now, the only reason we're bringing--

[redacted]
A.	--until I was 30--

Hamilton
Q. --bringing this on tape, because this is--District Attorney's gonna read this as well, so it's no secret, I'm not--

[redacted]
A. I understand.

Hamilton
Q. --I'm not divulging any secret information or anything like that and I'm not trying to put you in a position. I'm just simply putting it on tape that you've been arrested numerous times. How many AKA's do you have?

[redacted]
A. That they know about, ten.

Hamilton
Q. Okay, and you--your rap sheet total is 15 pages, and you've been convicted once according to you. I think you've been convicted more than once.

[redacted]
A. I got convicted one time--

Hamilton
Q. --For what?--

[redacted]
A. --up 'til 19, I have a burglary, I had one felony burglary. I've been in prison one time up until 19-, 'til I was 30, 'til 1991--

Hamilton
Q. --Okay, were you arrested--

[redacted]
A. --Then I picked up two more felonies--

Hamilton
Q. --Were you arrested for assault with a deadly weapon on a police officer and fireman--

[redacted]
A. In 19--

Hamilton
Q. --and you're convicted for a felony and five years prison?

[redacted]
A. Yes, sir.

Hamilton
Q. Okay, so that was another one, correct?

[redacted]
A. That was my second one, yes sir.

Hamilton
Q. Okay, and then you also had grand theft--

[redacted]
A. --That's all one case, sir.

Hamilton
Q. Okay, well that was in--you were arrested in March 9th, 1992, for the 245 but you also, and a grand theft auto, but also, you were arrested for the one that I said that you were convicted on, that was February 21st, 1992.

[redacted]
A. That's when I was convicted. We were all arrested the same day and I fought the case all them months and then when I convicted, see, that's what--those papers are phoney. They tell you when you're arrested and it makes it look like a 15 page rap sheet but it's not.

Hamilton
Q. Okay.

[redacted]
A. It's not.

Hamilton
Q. All right, that's fine--

[redacted]
A. --oh yes, well, there are convictions there.

Hamilton
Q. Okay--

[redacted]
A. --But if you notice the age and the time I--I was 30 years old when I got a felony.

Hamilton
Q. Okay, that's fine, I--I'm just trying to clear up the record, that's all.

[redacted]
A. There's no credit, there's no credit to that, huh?

Hamilton
Q. Give me your--I know we started off early. Give me your true name, your home address, your phone number and your date of birth.

[redacted]
A. Okay.

Hamilton
Q. So we'll know--

[redacted]
A. --[redacted] [redacted] is the date of birth. [redacted] [redacted], is my home address.

Hamilton
Q. You have a phone number there?

[redacted]
A. [redacted].

Hamilton
Q. Okay, and that's your true information?

[redacted]
A. That's home. That's many, many years. That's--my parole officer has that and that's home.

Hamilton
Q. Okay, okay.

[redacted]
A. That's home.

Hamilton
Q. Okay.

[redacted]
A. Or it was, here's home now.

Hamilton
Q. Okay, okay, can you think of anything else?

[redacted]
A. What, of this case?

Hamilton
Q. Yeah.

[redacted]
A. No, just, no, just, I hope things come out all right.

Hamilton
Q. Okay, and so do I to be quite frank with you, so do I. Okay, we're gonna end this interview at 12, let's see, 1242.

END OF INTERVIEW

I/M [redacted]

I.A.B. INTERVIEW 10-31-94

WITNESS INTERVIEW

CASE NUMBER IAB 008383

[redacted] ([redacted] Booking # [redacted]

Nemeth:
Q. Okay, as I told you prior to going on the tape. My name's Sergeant John Nemeth and this is my partner, Sergeant Tim Cornell. We're here from the Sheriff's Internal Affairs Bureau. Today's date is Monday, October 31st, time is 1402 hrs. We're here at Central Jail interviewing Inmate [redacted] your last name is [redacted], is that right?

[redacted]
A. [redacted]

Nemeth:
Q. Your last name is [redacted] first name [redacted]. And you have a middle name, [redacted]?

[redacted]
A. That is my middle name, my real name, that's an alias. (okay)

Nemeth:
Q. This one you're booked under (I'm just booked under [redacted] today, [redacted] what's your booking number you're booked under today?

[redacted]
A. [redacted]. (okay)

Nemeth:
Q. And what is your true name, [redacted]?

[redacted]
A. [redacted] They already know about it, I was on parole (inaudible).

Nemeth:
Q. That's fine, wh–, what's your, what is the last name then?

[redacted]
A. [redacted]. (okay)

Nemeth:
Q. And that's your *true* actual name?

[redacted]
A. That's my true actual name. (alright)

Nemeth:
Q. What is your birthdate, Richard?

[redacted]
A. [redacted]

Nemeth:
Q. [redacted] So where's your [redacted] your first name [redacted]s your middle name, you just left off your last name.

[redacted]
A. Right, they interrupted me at the time when I was in booking.

Nemeth:
Q. It's okay, you don't have to explain, that's fine.

[redacted]
A. So if that's what they wanna know, fine.

Cornell:
Q. Okay, and they call you "[redacted] is that right?

[redacted]
A. Yes.

Nemeth:
Q. Call you "[redacted] okay, and, [redacted] what is your home address outside?

[redacted]
A. At the moment, the County jail right now.

Nemeth:
Q. Okay, so we'll list this address and do you have a parole date or expect to be in custody for a period of time, do you?

[redacted]
A. Yes, I do. (okay) At least for a year.

Nemeth:
Q. Pardon me?

[redacted]
A. At least a year.

Nemeth:
Q. At least a year? Okay. We questioned you in regards to an incident that happened on actually late Thursday night or very, very early . . . late Wednesday night, very, very early Thursday morning, October 27th, this year, a few days ago last week, it was in Module 4400. Were you present Module 4400, were you on duty as some type of trustee there?

[redacted]
A. Yes, I was. (okay)

Nemeth:
Q. And how long had you been a trustee there?

[redacted]
A. I just received the job that night.

Nemeth:
Q. That night you were a trustee, (right) just had gotten that job.

[redacted]
A. (inaudible). (okay)

Nemeth:
Q. Had you been a trustee somewhere else before that?

[redacted]
A. Yes, I have. (okay)

Nemeth:
Q. And can you tell me what you saw, if anything, that night?

[redacted]
A. I'd like to ask a question first.

Nemeth:
Q. Sure.

[redacted]
A. I don't know who initiated this investigation, the inmate or the officer.

Nemeth:
Q. Who initiated the investigation is, actually it was initiated by our own Department. We have a procedure when an inmate is, receives certain types of injuries that the Sheriff's Department, the unit that's involved in that notifies Internal Affairs and then we decide whether we're gonna conduct the investigation. So it's the Department that initiated the investigation, supervisors here at this unit initiated the investigation, okay?

[redacted]
A. Sounds good.

Nemeth:
Q. Alright so, back to my question now. (yes) Did you see something that night?

[redacted]
A. Yes, I did. I heard a noise, I turned around, I seen an officer and an inmate wrestling. (okay)

Nemeth:
Q. Now where were you when you first heard this noise?

[redacted]
A. Up on Denver Row.

Nemeth:
Q. On Denver Row in the dayroom or the shower or?

[redacted]
A. Out on the tier.

Nemeth:
Q. Just walking the tier?

[redacted]
A. Walking the tier.

Nemeth:
Q. Sweeping up or taking care of business, or?

[redacted]
A. Right, I looked up and I seen 'em engaged in a fight.

Nemeth:
Q. What, where did you see this fight occurring?

[redacted]
A. At the base of the stairs, base, Baker and Denver Row stairs.

Nemeth:
Q. The bottom of Baker and Denver Row?

[redacted]
A. On the Baker and Denver Row gates.

Cornell:
Q. Okay now, is that on the same level where the booth is? The, the door to the office booth?

[redacted]
A. The same booth, the same booth alright.

Nemeth:
Q. They were not on the freeway, is that right?

[redacted]
A. No they weren't.

Nemeth:
Q. They were both, walked out, what would be like the sallyport area.

[redacted]
A. They were in the port, the side bar, right. (okay)

Nemeth:
Q. What did you see then?

[redacted]
A. I seen them two fight.

Cornell:
Q. Can you be real descriptive about it?

[redacted]
A. Mostly a wrestling match.

Cornell:
Q. Okay, and how were they doing that?

[redacted]
A. Bear hugs, they were wrestling, throwing each other around. (okay)

Nemeth:
Q. Let me ask you one thing, did you noticed how this started at all, or?

[redacted]
A. I didn't notice the initiation of the fight, no, (you know the) but I, prior to that, I heard an officer telling somebody to get in his house, get in his house, get in his house.

Nemeth:
Q. Get in their cell, you think, (yeah) is that over the PA system you heard that?

[redacted]
A. I heard it over the PA system, (and that was) I guess, and then a little while later I heard like, I can't tell you how the fight initiated and just what I see, when the fight erupt.

Nemeth:
Q. Okay, see if you're in a fight, what do you mean, you hear shoes scuffling, or?

[redacted]
A. Well you know I hear vibrates the floor and then (inaudible). At that time he landed on the top (right) how did this happen, I mean, they're fighting and during the fight, they said, "You're gonna have to wash that shit," one of the officer that was left, you know, it's not, it doesn't indicate.

Nemeth:
Q. Okay, what, what you did see though was you said something about they were, each had each other in a bear hug, is that what you're saying?

[redacted]
A. No, no.

Cornell:
Q. And where were they, exactly?

[redacted]
A. At the base of the steps.

Cornell:
Q. On Denver side or Baker side?

[redacted]
A. Denver side, well both Denver and Baker are one side. (inaudible)

Cornell:
Q. Well, were they closer to . . .

(end Side A–start Side B)

Nemeth:
Q. Okay, we're continuing with the interview of [redacted] at Central Jail. Time is 1407. Just before the tape went off, make sure it picked up on the end, you said they actually, *they* being the deputy and the inmate, that he said, had each other in a bear hug and were wrestling, hit the gate, then he said that was the D Row gate.

[redacted]
A. Right, the D Row gate.

Nemeth:
Q. So then D Row would be the gate . . .

[redacted]
A. Upper gate.

Nemeth:
Q. See, if you got the Module Officer's booth gate in the middle then to the immediate right, that is the Baker Row gate, then to the right of that is the D Row, (Denver gate) is that right? (yeah) Then to the right of that is the bars and then the showers, is that right?

[redacted]
A. Right. (okay)

Nemeth:
Q. So they bumped the D Row gate.

[redacted]
A. They bounced the D Row shower's wall back and forth a couple of times. It looked like a good wrestling match, took place.

Cornell:
Q. What did the inmate look like that was rolling?

[redacted]
A. I looked at the two of 'em, I could not identify 'em, if you put 'em in front of me I couldn't tell you who it was.

Nemeth:
Q. Well, could you tell us is he White or Black?

[redacted]
A. You can tell he was Black.

Nemeth:
Q. Describe, could you tell us how tall he was about?

[redacted]
A. I couldn't tell.

Nemeth:
Q. Was he taller than the officer or shorter?

[redacted]
A. I couldn't tell, I could tell the officer was doing pretty good. (okay)

Nemeth:
Q. Which officer was it?

[redacted]
A. I couldn't tell you, it was the one who was working that night.

Nemeth:
Q. It was the one working the booth that night?

[redacted]
A. Uh-huh, there was only one officer, yeah, I guess there was one, I didn't even see him come out of the booth, I didn't see him, you know, went below the gate and the wrestling match was out there, (okay) you know.

Nemeth:
Q. Do you remember what the deputy looked like?

[redacted]
A. No.

Nemeth:
Q. Just that you knew he was the one working that night?

[redacted]
A. Right. (okay)

Cornell:
Q. Could he have been relieved by somebody else and it could have been another deputy in the booth?

[redacted]
A. I didn't see, it's very possibly likely.

Cornell:
Q. Then you may not have seen that?

[redacted]
A. Well, I seen, I may not have seen the relief, (right) but, I mean, I seen the wrestling match, yes.

Nemeth:
Q. And you seen it was the deputy who was working that booth tied into this incident, is that . . . ?

[redacted]
A. No, I can't say that for sure either but I was, but there was no other deputies in there that night, but nobody came in because I was the end of the tier and I, you know, I'm just repeating verbatim to what I seen.

Cornell:
Q. But you know they routinely relieve one another (inaudible) and could that?

[redacted]
A. Yes, it could have occurred, yes.

Cornell:
Q. That could have occurred and you wouldn't know it?

[redacted]
A. Right, I wouldn't know.

Cornell:
Q. Alright, does it normally occur that late at night?

[redacted]
A. On occasions, yes, it does, I don't know when the officers have their breaks or their chows, (okay) but it happens periodically. (alright)

Nemeth:
Q. Did you (inaudible)?

[redacted]
A. Who all?

Nemeth:
Q. The deputy. Someone? Wait, wait, waving your hands up here, I don't want you to be nervous about retaliation, I've already told you before going on the tape and I'll put it on the tape record, I'll give you my business card, you won't have anything to fear about retaliation.

[redacted]
A. I couldn't personally say.

Nemeth:
Q. If I showed you some pictures would you think you'd be able to identify him, who it was?

[redacted]
A. I can't answer that.

Nemeth:
Q. You don't know if you could?

[redacted]
A. I can't answer that.

Nemeth:
Q. You'd have to see and see if you could?

[redacted]
A. Yeah. (okay) I can't answer that. (okay)

Nemeth:
Q. So you saw that happening, you saw bouncing to the, you said the B, D Row gate, the shower bars and then the wall and then what happened?

[redacted]
A. Was not a fight and then I knew it wasn't my business to be there.

Nemeth:
Q. So what do you mean not a fight? Tell me what (audible)

[redacted]
A. Well most likely it was, no, I didn't see no slugging.

Nemeth:
Q. No blows being thrown by either party?

[redacted]
A. Nah, see I didn't see the beginning of the fight, (right) what initiated it so I seen that he went off, there was a real fight, (right) whatever it was, and nobody was saying nothing, he was getting busy, they (right) were doing pretty good, you know, and I was surprised because . . .

Nemeth:
Q. Because *what*?

[redacted]
A. You know, there was, I was just surprised, usually one of 'em will polish the other by that time, (right away) and it was a good, it was even. (even match)

Cornell:
Q. Okay, when you saw 'em they were both locked in a bear hug?

[redacted]
A. Yeah, they was just clinched, was like in a wrestling match, (inaudible), on our showers, (uh-huh) then the wall and other officers come in and, I've been through this many, many times, I just turned and walk away, it's not my business what happens.

Nemeth:
Q. Did you see the two fall down?

[redacted]
A. Yes, I did.

Nemeth:
Q. Okay, and was there anybody else there when the two fell down?

[redacted]
A. I seen now, now you cannot quote me directly now, but I seen some other officers coming in at the time they, they were on the ground wrestling, I mean, the, the fight was still occurring when the other officers, it was in action when the other officers arrived.

Cornell:
Q. But the question is were they standing up or were they on the floor?

[redacted]
A. On the floor.

Nemeth:
Q. And they had, had they gone to the floor (just) before the other people arrived?

[redacted]
A. Just at that time.

Nemeth:
Q. Just as they arrived?

[redacted]
A. Bang! Bang! Bang! Bang! Bang! And they come in. (okay)

Nemeth:
Q. But let me ask you this.

[redacted]
A. Like a pinball machine works.

Nemeth:
Q. Were any of the responding officers *there* when they hit the ground?

[redacted]
A. Just at that, prior, at that moment, it was like right now if you hit the ground, they came in, they was, when the officers came in it was officer on the ground, (okay and) (inaudible)

Nemeth:
Q. Had, had he been on the ground for, how long do you estimate before that?

[redacted]
A. Just at that moment 'cause they were, there was nowhere to pass.

Nemeth:
Q. So like a si--, simultaneous, almost?

[redacted]
A. Simultaneous, yeah, they wasn't gonna break up the fight, they was looking like this, fighting.

Cornell:
Q. How did they land?

[redacted]
A. I don't know, hard.

Cornell:
Q. Well no, but I mean . . .

Nemeth:
Q. Was one on top of the other?

[redacted]
A.	I, I couldn't, I couldn't really see enough because I was at the steps, you know, the end of the steps are right here where I seen the fight, so when they go down I really couldn't see anything.

Nemeth:
Q.	Okay, but just think about this for a second, think if you can remember.

[redacted]
A.	I'm sure one was on top of the other, I couldn't say who.

Nemeth:
Q.	You didn't see who was on top (no) or I suppose there's another option, they could have fallen side by side.

[redacted]
A.	They could have fallen side by side.

Nemeth:
Q.	Did you see that at all?

[redacted]
A.	No, I didn't see how they actually hit.

Cornell:
Q.	Do you know if they broke apart when they landed?

[redacted]
A.	No, I couldn't.

Cornell:
Q.	You don't know?

[redacted]
A.	Well, no, I don't think so because at that moment that officer, I'm sure he's trained not to let go of that man, that guy.

Cornell:
Q.	Okay, but you don't know that for sure?

[redacted]
A.	I don't know for sure, right, (okay) but above floor they looked like a legit thing, (Nemeth: Okay.) you know what I mean?

Nemeth:
Q.	By "legit thing" you mean that they looked like . . .

[redacted]
A.	I don't know, it seems (inaudible) could tell you the scene unlegit, (inaudible) but this was legit.

Nemeth:
Q.	Okay and, what happened after that?

[redacted]
A. After that?

Nemeth:
Q. After you saw them on the floor and the other deputies came.

[redacted]
A. Then I left. (okay)

Nemeth:
Q. How many deputies came in?

[redacted]
A. A few.

Nemeth:
Q. What's a few.

[redacted]
A. I couldn't count.

Nemeth:
Q. More than two?

[redacted]
A. Yes, more than two.

Nemeth:
Q. More than four?

[redacted]
A. Don't quote me but I think approximately.

Nemeth:
Q. Approximately four?

[redacted]
A. Yeah.

Cornell:
Q. Where did you go? You said you left?

[redacted]
A. I went back (inaudible) tier where I couldn't see.

Cornell:
Q. On Denver Row?

[redacted]
A. Yeah.

Nemeth:
Q. And you purposely did that?

[redacted]
A. Yeah.

Nemeth:
Q. So that you wouldn't witness anything there?

[redacted]
A. Right.

Nemeth:
Q. You thought maybe would be out of line?

[redacted]
A. Well, yeah. Yeah, and you gotta realize I gotta stay in here for a year.

Nemeth:
Q. Right, so you just didn't wanna be a part of that?

[redacted]
A. I didn't wanna be part of that, (okay) you know.

Nemeth:
Q. Was anybody else there, where there any other trustees on duty that night?

[redacted]
A. I, I can't volunteer their names, I don't know, (okay) ask them maybe and they upon, they wanna volunteer their information, fine, (yeah) but I, I can't.

Cornell:
Q. Well we know there was a, a Mexican guy that was working with you.

[redacted]
A. Yeah, there might have been.

Nemeth:
Q. Was a Black guy there?

[redacted]
A. Yeah.

Cornell:
Q. We know there was, I mean, I know he was there, that's what I'm saying.

[redacted]
A. Did you check the work list and see who was there to handle? (where, where there)

Nemeth:
Q. Fine, we could do that, there's no problem with that.

Cornell:
Q. Where there only two trustees or were there more?

[redacted]
A. At the time there's only two Early Morning trustees, (okay) about now I can't talk.

Nemeth:
Q. Well, listing, we're gonna check the work list anyway so (go for it) it's never gonna come back to you, it's gonna come back to we did their checking.

[redacted]
A. Well it's obvious you know there was somebody working that night (right) and I can't volunteer their names (inaudible).

Nemeth:
Q. Well, just tell me who else, how many other people were working besides yourself?

[redacted]
A. Two.

Nemeth:
Q. Two others?

[redacted]
A. There was, there was two out but there was only one working, (okay) in the, the gym but there were, the others working, too, look like they . . .

Nemeth:
Q. Screwing off?

[redacted]
A. Well no, just that assigned job was me and I just got assigned that job so in other words I fade in, he fade out, (right) you know what I mean so he showing what's happening. (I see)

Cornell:
Q. Was he with you when this thing started?

[redacted]
A. No. The one was, no, the one was on the other side, I didn't watch anybody opposite the other tier go tiers, and he's on the other tier, no tier, I don't, I can't say what he saw.

Nemeth:
Q. Well no I didn't ask . . .

[redacted]
A. He, he was, he was at the far end of the tier.

Nemeth:
Q. Well we're asking you where he was.

[redacted]
A. We, we weren't together, he was located on D Row.

Nemeth:
Q. He was on C, dayroom?

[redacted]
A. C, you're right, excuse me, C, he was C, the other side, (uh-huh) must be the left side of the booth. (uh-huh) Hey, where's this tape going?

Nemeth:
Q. It goes to us, we just transcribe it into a report, goes to a secretary and transcribes everything that's said on to it into a report. It's like a, just like a court.

[redacted]
A. Like a sue?

Nemeth:
Q. No, it has nothing to do with court, it has nothing to do with any kind of court in any manner. All this is is just for our record, right, noticed I didn't sit here and write all kinds of names and notes out and then maybe get it right and maybe get it wrong of what you're saying, this records exactly what you're saying so at a later date nobody could say we put words in your mouth.

[redacted]
A. I understand.

Nemeth:
Q. Just like at court, (see, see, see) the other day in court they have a stenographer? (yeah, a stenographer) Well this is o–, our stenographer.

[redacted]
A. That's yes then, too, you know, then, then, see you know, then I understand, you know, this house is our life here, see they go and I'm saying the truth here, you know, (uh-huh) 'cause I can just roll around now, they been cool (uh-huh) see, but they'll go and roll me and I'll be rolled then if I'm not, not there in general, don't, don't take it like that (right) 'cause I'm here to stay.

Nemeth:
Q. Well I'm suppose (inaudible)

[redacted]
A. Shaw! I gotta go back up here and you think it's nice in them dorms?

Cornell:
Q. Well, let me ask you a question in house in here, I get the impression that you have a lot more information than what you're giving us here. (I'm not saying) Hang on a second, let me finish, okay. And that you're afraid to tell us because you're gonna have to do a year here at CJ and you're concerned of what's gonna happen to you during that year, that's what I'm getting from you, okay? Is that true or not?

[redacted]
A. Is the problem? If I was concerned, yes, I was concerned but I'm, I'm, I'll put it real simple, I seen everything above go, what I seen with that officer. (okay)

Cornell:
Q. That's what I was gonna ask you, did, did you think you see everything what the deputies did, was it okay what they did?

[redacted]
A. Yes.

Cornell:
Q. I mean, did they do anything out of line?

[redacted]
A. I didn't see what the other deputies' actions were, okay, but his actions at the time, of course if I was an officer and there's a problem and, and it, it came to that point where a physical altercation with them, yes, I'll beat, (okay) that's how we'll do it back and forth, I will do what I have to do (right) because, you know, vice versa, I'm in here right now and I don't got it bad and I don't got people that can hurt me and I still gotta do what I gotta do. (sure) You know, so you know, what he did was above Board, yes. (okay)

Cornell:
Q. You, you didn't see anything you thought was excessive or anything?

[redacted]
A. No.

Nemeth:
Q. Okay, after you left what, what is it you said you walked further down D Row?

[redacted]
A. Yes, I just, when I come to the steps, you know, you met him before, (yeah) you seen him, right, you've been on the tiers, (uh-huh) you can stand and see the angle, (uh-huh) and I watched it and there was no death throws, you know, (uh-huh) you know, somebody's gonna die in there, maybe somebody would help, you know, but there wasn't nothing like that, it was, ('cause a minute ago) it was a detainer move by the officer.

Cornell:
Q. A minute ago you said you could ruin the officers if you'd like.

[redacted]
A. If I wanted to lie. (oh)

Nemeth:
Q. That's what you mean. If you were gonna lie, okay.

[redacted]
A. (inaudible)

Nemeth:
Q. So anyway, you're standing by the steps, (inaudible) right, you're standing by the steps, looking down watching the wrestling match, is that right?

[redacted]
A. Yes.

Nemeth:
Q. You go down to the ground, approximately four deputies respond and at that point you turn around and get back down the road, (right) all the way to the end, to 13?

[redacted]
A. Yeah, about 10.

Nemeth:
Q. About 10. You started hanging around there?

[redacted]
A. I, I sat down on the floor to (inaudible) my pocket. (okay)

Nemeth:
Q. Did you hear anything at that point?

[redacted]
A. Relatively quiet. (okay) Keys dangling, (yeah, okay) feet on the floor.

Nemeth:
Q. Did you, so, did you hear what you thought might be a scuffle or something still going on at the end?

[redacted]
A. Just, yeah, but I couldn't tell you what that was, it could have been a detainer and a handcuff man.

Nemeth:
Q. Right, did you ever hear anybody crying, crying out for help or, "I'm dying!" Or anything like that?

[redacted]
A. I couldn't tell, I couldn't tell you, there was a bunch of noise, I couldn't say.

Nemeth:
Q. So there was noise but you couldn't say if (right) that was it?

[redacted]
A. No, I couldn't say it. (okay)

Nemeth:
Q. Let me just say this that you're name could be ex–, you know, removed from the records so there's not gonna be any repercussions come out here, okay, I, I know that you know more than what you're telling me and I could appreciate your circumstances, say, "I gotta live in this house for another year, (see) and these people are in control."

[redacted]
A. See, there's more to it than that, Sir.

Nemeth:
Q. Okay, let's hear it.

[redacted]
A. You see, 'cause when I go to court the officer in court, I'm telling you, is lying on me, I'm partial, now I may complain but if he lying on me, what's to stop me from lying on him but I don't do that, so where's the justification.

Nemeth:
Q. Well, nobody's asked you to lie, I'm just making sure that you're telling us everything you know.

[redacted]
A. See, that's what I'm trying to say, where's the fairness in all this, you know. (right) I'm telling the truth, why don't they tell the truth?

Nemeth:
Q. Well unfortunately we don't have any control over that (inaudible).

[redacted]
A. You know how hard it is (inaudible).

Nemeth:
Q. Right, right. We just trying to do one little thing here. Alright, my question to you is did you hear anybody crying out or saying, "Help me!" Or "I'm dying !" Or anything like that?

[redacted]
A. If I did, maybe the dude is mentally unstable, I can't say I've been working in the, in the ding tank and I hear all kinds of stuff.

Nemeth:
Q. Okay, well we'll take everything into consideration but at this point, I'm just asking is that what you heard or not?

[redacted]
A. I can't say, you know, you can't quote me on that, couldn't say what was said, (okay) you know?

Nemeth:
Q. Sure.

[redacted]
A. When I hear something, I told myself I've had officers beating on me, on my tail and on my back but it's just a quick beat up, (right) even as a (inaudible), (right) you know. (inaudible), you know you're gonna do the same thing, too, but as far as that goes I seen legit. (okay)

Nemeth:
Q. Did anybody afterwards asked you if you saw anything?

[redacted]
A. Yes.

Nemeth:
Q. What did you say?

[redacted]
A. Nothing.

Nemeth:
Q. You said "No" or you said, "No, I saw nothing"?

[redacted]
A. I said, "I don't know nothin'."

Nemeth:
Q. You said you don't know nothin'.

Cornell:
Q. Who asked you?

[redacted]
A. I don't remember, an officer.

Nemeth:
Q. Was it a deputy or a sergeant?

[redacted]
A. Maybe, yeah, it might have been (inaudible).

Nemeth:
Q. Got stripes or no stripes?

[redacted]
A. No stripes. (and) He came and got mine and they, they were fair about it, you know, polite, you know, (inaudible).

Nemeth:
Q. Do you know if anybody told you why you were offered a job there?

[redacted]
A. No. They, well see I just got that job and, and the officer that hired me was obviously in a fight so he wasn't there and they needed the booth no more so when another officer came on the phone he said, "Where's your badge?" I said, "I ain't got one," he go, "Well you're out (inaudible)," you know, I was suppose to get the badge but he wasn't there.

Nemeth:
Q. Checked your trustee badge?

[redacted]
A. Right.

Nemeth:
Q. And did, did, when you got that job were you ever told how long you were gonna have that job?

[redacted]
A. It was obviously more than one night.

Nemeth:
Q. More than one night, that's what you would expect 'cause you were just getting trained for it, right?

[redacted]
A. Right. (okay)

Nemeth:
Q. So you found it surprising that you were (yes, Sir) suddenly no (yeah) longer involved in that deal?

[redacted]
A. There was no correlation, I can't . . .

Nemeth:
Q. You can't put your finger and say that's why, but it's just strange, strange coincidence?

[redacted]
A. There was a lot going by. Strange coincidence, right. I think that the officer was gone and when the officer came out and told me, "Man, there's a lot of officer near here? And then I go and I said, "No, he got in a fight, that's why he's not here," figured he'd go to the hospital and get his injuries checked, you know. And the way they do the CDC's is if I was in here, they're gonna take six months with pay, oh, yeah, they were in a fight they do, (inaudible) I figured that money out.

Nemeth:
Q. That he might take some time off with pay because he was involved in a fight?

[redacted]
A. Yeah, he could have been injured, yes, he could be.

Cornell:
Q. Do you know he was injured?

[redacted]
A. I have no idea, it was a scuffle there, it's possihle they gone wrong.

Nemeth:
Q. Alright, let me just clarify, you never saw *either* the deputy or the inmate hit each with a fist (no, I didn't) or swinging blows? You said it looked like a wrestling match, (right) they were latched on to each other, is that right

[redacted]
A. Wall to wall to wall latch.

Nemeth:
Q. And they held on to each other that whole time?

[redacted]
A. Yes.

Nemeth:
Q. And then they fell down, hold on to each other, (yes) is that right?

[redacted]
A. Yes.

Nemeth:
Q. Did you ever see any blood?

[redacted]
A. Afterwards.

Nemeth:
Q. No, I'm talking (inaudible).

[redacted]
A. No, but it's a good possibility and li–, like I said, you know, it was either 50 here, 50 there, you know, it could have happen, it couldn't have happen, you know.

Nemeth:
Q. Well that's what our job is to figure out the difference between the two.

[redacted]
A. Right, and probably (inaudible) and yes you do get in here and again I've had to wait on top of the other person that went in before and that's what usually happens when you're trying to, trying to hold (inaudible). (okay)

Cornell:
Q. Did either one of 'em have the other in a headlock?

[redacted]
A. It looked like, it could have but not, there was no definite control where you only see the (inaudible).

Cornell:
Q. Well so, I mean actually, somebody told us that the Black inmate had the deputy in a headlock.

[redacted]
A. There's a possibility, yes.

Cornell:
Q. But did you ever see that, is what I'm saying. You're telling us it was a bear hug.

[redacted]
A. Yes, I seen it but it wasn't, it wasn't, it wasn't a hold, you know what I mean? It wasn't a headlock, it wasn't direct, it was a fight, (uh-huh) it was, it was a move though, it was a good move but it wasn't no direct lock. (okay)

Cornell:
Q. When you saw them they were both faced, they, were they face to face the whole time?

[redacted]
A. Yes, face to face, fighting, (okay) chest to chest. And they rolled down the bars, they rolled each other to the bars, you know what I mean, trying, trying to get a better position, (okay) who got the better position and also "wham bang," (down they went) they went down.

Nemeth:
Q. Who had the better position?

[redacted]
A. Neither one at the time.

Nemeth:
Q. Neither one at the time.

[redacted]
A. Yeah, but the officer was doing good, you know, 'cause he, you know. My job is in a Black and White position (uh-huh) and all the Black trying to dog you all the time, you know I mean they, how can I said it, for being a White person he hit pretty good, I say he doing good, they were fighting good, you know, (uh-huh) but no blows, no kicks, you know, and they was fighting. (okay)

Cornell:
Q. Did you ever see the guy afterwards, the inmate afterwards, see what happened?

[redacted]
A. Never.

Cornell:
Q. How long did you stay down by 10?

[redacted]
A. Until they left and I went down and I cleaned up some blood that was on the floor.

Nemeth:
Q. On the floor (inaudible).

[redacted]
A. Uh-huh.

Nemeth:
Q. Shaking your head, going "uh-huh." Was there, you know, a lot to you?

[redacted]
A. Enough to soak the towel.

Nemeth:
Q. Soak, fill up the towel, soak?

[redacted]
A. Yeah, the towel, yeah. (okay) Thick blood, you know.

Cornell:
Q. Anything else that you wanna tell us?

[redacted]
A. No. (okay)

Nemeth:
Q. See what he wanna tell us (inaudible).

[redacted]
A. But I, I, I . . .

Cornell:
Q. We understand you, (inaudible).

[redacted]
A. And then see what I'm trying to deal with here.

Cornell:
Q. But the other thing is we got a job to do and, see, when people tell us, "Here's what happen," A, B, C, D, E, F, G, and somebody else tells us maybe E, F, G, and somebody else gives us another part, in order for us to put together what happened, we gotta have the whole story, in order to do that we gotta get a little piece from here, a little piece from here, a little piece from here, a little piece from here, (yeah, okay well) okay, and *that's* the only way that we can do it and, and some people perceive things different, you and I can go stand and watch something happen right here in the hallway, (right) you see one thing, I see something different, (okay) okay, and that's the only way that we can do it by interviewing everybody that saw a piece of it, put the whole thing together and say, "Yeah, they did something wrong," or "They didn't do something wrong," (alright) That's all we can do (I un–) and, and when people tell us everything then, then . . .

[redacted]
A. But there's more to it than that though, I mean, you gotta understand I got animosity towards the sheriffs now.

Cornell:
Q. With the sheriffs that arrested you?

[redacted]
A. Sure, the sheriffs all, the sheriffs who shot me last time, sheriffs that put me in the joint last time, five years.

Nemeth:
Q. Okay, but you're not li–, you're not lying in this case?

[redacted]
A. No.

Nemeth:
Q. Not letting it interfere with what . . .

[redacted]
A. Well my fear, that's where my animosity comes in, (inaudible).

Nemeth:
Q. I, I can (inaudible).

Cornell:
Q. Okay, I understand.

Nemeth:
Q. Is there anything else you wanna say for the tape record, right now, that you wanna?

[redacted]
A. I think it was a pretty above board thing, afterwards I can't recall what happened, (okay) but . . .

Nemeth:
Q. From what you saw you believe it was fair, (I've seen) appropriate actions on the deputy's part?

[redacted]
A. On what deputy's part? The other deputies I can't comment on.

Nemeth:
Q. You're not gonna comment on that, okay. (right) Then if there should be nothing further, we'll conclude the tape at 1425.

(tape paused)

Nemeth:
Q. Okay, we're going back on tape with, with [redacted] and the time now is 1438 hrs. After the tape, first taped interview [redacted] added a few things that he felt a little concerned about. *Quite* frankly [redacted] is very concerned about re–, repercussions from talking to us, he's *quite* concerned that there might be some type of retaliation carried out against him, to that end I've provided him with a business card and told him that he could call me or talk to any Watch Commander here at anytime that he feel something like that is being carried out against him. After considerable consoling and convincing of [redacted] that, that we could guarantee his safety he volunteered some additional information and I'm gonna, I'm gonna ask him again to repeat that on tape. Now, [redacted], after going off tape you said that it was true that he saw the deputies, the deputy and the inmate fall to the ground and then when the other four deputies responded you decided, of your own volition, to turn around and, and leave the area, is that true?

[redacted]
A. Right. (okay)

Nemeth:
Q. Now, you told me when you were down at Cell 10, is that right? Cell 10 of the D, Denver Row.

[redacted]
A. Denver Row. (okay)

Nemeth:
Q. You were leaning against the radiant of the tier and looking down at the location area of the fight?

[redacted]
A. Yes, I was. (okay)

Nemeth:
Q. And what did you see?

[redacted]
A. Sitting over at the time, as I was sitting down just lower that all I could see is the upper half of the bodies struggling. (okay) The inmate is on the floor so I can't see him, (okay) all I could see and *hear* is motions, (right), now believe me, too, before I've been kicked and it ain't motion, I've seen motions but I can't tell if the officer, officer or officers were trying to kick him and he might still been fighting, (right) uh-huh.

Nemeth:
Q. But what did you see?

[redacted]
A. Motions, you know.

Nemeth:
Q. What kind of motions?

[redacted]
A. Kicking motions.

Nemeth:
Q. Kicking motions?

[redacted]
A. Yes.

Nemeth:
Q. And *who* was making those kicking motions?

[redacted]
A. I can't say who it was.

Nemeth:
Q. I mean, were they deputies?

[redacted]
A. Yes. (okay)

Nemeth:
Q. How many deputies did you see making that?

[redacted]
A. Truthfully one.

Nemeth:
Q. One? No more than one?

[redacted]
A. I can't recall, it might have been, there was a (inaudible).

Nemeth:
Q. Right, but *you* clearly saw one (yes, I did) deputy sheriff kicking, and can you identify that person?

[redacted]
A. No, I cannot.

Nemeth:
Q. Did you see their face?

[redacted]
A. No, I didn't. (okay)

Nemeth:
Q. It seemed like you had a little hesitation there.

[redacted]
A. No. (okay)

Nemeth:
Q. If you don't wanna identify 'em just say, "I saw their faces but I don't care to identify 'em," is that, (I don't) is that case?

[redacted]
A. It's a possibility, yeah.

Nemeth:
Q. That's a possibility?

[redacted]
A. It's a possibility. (okay)

Nemeth:
Q. Like I say, I can't force you to do anything but what I need, trying to get an accurate story.

[redacted]
A. It feels like the "mother fucker is gonna rat or something," you know what I mean?

Nemeth:
Q. Nah, you, well who, we could do that then just tell them the truth, you think you're doing what is, what is right, I mean, if it feels right in your heart then it's right, you know what I mean? If somebody got excessive force used on him or force used on him that shouldn't have been, well I don't know if, I don't think that's right, but . . .

[redacted]
A. Well, well I can't say any of them used excessive force, nah, because I didn't see if the man was resisting arrest now, (right) he's facing down. (right)

Nemeth:
Q. But you're saying you saw a deputy making a kicking motion, is that right?

[redacted]
A. Yes. (okay)

Nemeth:
Q. And can you tell me who that was?

[redacted]
A. I can't tell you that. (okay)

Nemeth:
Q. Could you identify their face if you saw it again, in a picture?

[redacted]
A. Possible.

Nemeth:
Q. Possibly, okay. Now, what happened after that?

[redacted]
A. Well, he spit up, I turned my head because I don't wanna see those things.

Nemeth:
Q. You don't wanna see it any more?

[redacted]
A. Right. And after it got quiet, there for a while I thought it was alright, then it dawn on me, I got up and tried to walk (inaudible) I got down the stairs, they were still pounding, I leaned on the floor back, handcuffed him and I couldn't say if he was hog-tied, lassoed or not.

Nemeth:
Q. Now wait a minute, slow down a second, you said you, you turned your head, now all of a sudden you hear anymore noise, is that right? Did you think this fight was over with?

[redacted]
A. Yes, I did. (okay)

Nemeth:
Q. And what did you, get up and walk backwards?

[redacted]
A. After a couple of minutes, you know, (inaudible) and I give a little time, you know, (right) so that they can leave, take him out of there and I walked up, I got on the other tier and I got the chance to look down and here he was on the phone, yelling, "Officer down!" And then I noticed a few spots on the floor of blood but, so I (inaudible) I can't recall.

Nemeth:
Q. Was anybody kicking at that point?

[redacted]
A. At that point, no.

Nemeth:
Q. Was anybody hitting him at that point?

[redacted]
A. At that point, no. (okay)

Cornell:
Q. Did anybody say anything to you?

[redacted]
A. Just told me to leave, they told me to "get the fuck out of here." I turned around. (okay)

Nemeth:
Q. Did you see exactly how the inmate was lying?

[redacted]
A. My impression was his head was against, his feet were towards the Denver bars but they were kind of curled up (uh-huh) but not directly hog-tied, you know (uh-huh), but I can't say (right) that they might have hit him, (inaudible), (uh-huh) you know, but then I can't say for sure, but he was handcuffed on his back, then he was talking, saying something, I couldn't make out what he was saying, (uh-huh) I didn't wanna stand around.

Nemeth:
Q. Was he lying on his side then, is that what you experienced?

[redacted]
A. He was back in an angle like this, (okay) he was kicking back.

Nemeth:
Q. He's kind of curled up (right) like this, hands behind his back. Was his chest bowed forward towards his knees kind of?

[redacted]
A. No.

Nemeth:
Q. No.

[redacted]
A. He was just, (in a slight) yeah, with his head back, back.

Nemeth:
Q. With his knees rolled over, or?

[redacted]
A. To the side.

Nemeth:
Q. To the side?

[redacted]
A. Yes. (okay) He looked like that.

Nemeth:
Q. Like what?

[redacted]
A. Obviously it's not more but it looks like, you know, you go on the death seat, you see execution style and you see somebody tied up like that, that's how it is. (okay)

Nemeth:
Q. What happened next after that? They told you to get the heck out of here?

[redacted]
A. (inaudible) the staff told me, "Get the fuck out of here, I swear!"

Nemeth:
Q. A deputy told you that?

[redacted]
A. Yeah. (okay)

Nemeth:
Q. And then anything else happened?

[redacted]
A. I split, I came back down after they left, they left their keys down and I looked down and I seen another inmate was cleaning up after it was safe to go down, so I went down there and cleaned up. (okay)

Cornell:
Q. You cleaned up, the floor?

[redacted]
A. Yeah.

Cornell:
Q. The bars for what?

[redacted]
A. Blood on the floor.

Cornell:
Q. Blood on the floor?

[redacted]
A. Yeah.

Cornell:
Q. And what did you use to clean it up?

[redacted]
A. A towel, I had a towel and a mop. (okay)

Cornell:
Q. Was there a lot of blood or a little bit blood, what?

[redacted]
A. There was nothing, (inaudible).

Nemeth:
Q. Soaked the, saturated an entire towel with blood?

[redacted]
A. Yeah. (okay)

Nemeth:
Q. Anything else happened after that?

[redacted]
A. No, then, then later that night I lost my job. (okay) Do, maybe ask I can't put that . . .

Cornell:
Q. May not have anything to do with this incident, (right) you just lost your job, after all it was the first time you'd been there and the last time?

[redacted]
A. That's right, right.

Cornell:
Q. Is that right?

[redacted]
A. I was next, after that I did another job that night, 'cause I was a trustee somewhere else, they put me a trustee there.

Nemeth:
Q. So you're still a trustee but you don't work there any more?

[redacted]
A. No, I lost my job after a couple of days, I'm still not sure I got another job to do something, to clean the lockers.

Cornell:
Q. You're in 4300 now?

[redacted]
A. Yeah, I work 43 but I live 47. (okay) I lived 47 at that time.

Cornell:
Q. Right, your module, your module off–, or module (inaudible).

[redacted]
A. Right, (inaudible). (okay)

Cornell:
Q. What's the deputy's name you work for, that got you a job?

[redacted]
A. Miss, Mrs. Howard.

Cornell:
Q. Mrs. Howard?

[redacted]
A. Yeah. (okay) It's on my badge right here, that's the officer right there.

Cornell:
Q. Okay so . . .

[redacted]
A. I didn't have one of these the other night. (right)

Cornell:
Q. Deputy Howard got you the job in 4300. (yeah) You're the, you're the M trustee is what this badge says, right?

[redacted]
A. Yes. (okay, alright)

Nemeth:
Q. Alright. Anything else you wanna add right now? (uh-uh)

Nemeth:
Q. No?

[redacted]
A. You know, you talk to [redacted] yet?

Nemeth:
Q. Pardon me?

[redacted]
A. You talking, you know who it is?

Cornell:
Q. No.

[redacted]
A. You know, maybe I could go talk with you then we go talk with him and then, any how get all you guys over there.

Cornell:
Q. Maybe you shouldn't talk to him that way, I'll just plain talk to him myself, we can find out who he is, it's on the, it's on the roster we have here.

Nemeth:
Q. Alright, anything else for the tape?

[redacted]
A. No.

Nemeth:
Q. Okay, Tim?

Cornell:
Q. No.

Nemeth:
Q. Alright, we'll end the tape at 1445.

DOCTOR SANDER PECK
I.C.I.B. INTERVIEW 12-19-94

WITNESS INTERVIEW

CASE NUMBER 494-00023-2300-444

DR. SANDER PECK

Hamilton
Q. Okay, today's date is December 19, 1994. I'm here at Sybil Brand Institute with Dr. Sander Peck, an internist. It's approximately 1045 in the morning and we're gonna be discussing an incident that occurred at Men's Central Jail on October 27, 1994, in Module 4400 involving inmate, [redacted] and four other Men's Central Jail deputies. This case is being investigated under ICIB File Number 494-00023-2300-444. Again, we are here at Sybil Brand Institute and I'm Sergeant Eric Hamilton from Internal Criminal Investigation Bureau. Dr. Peck, were you working on October 27th of this year, at approximately 0030 hours?

Peck
A. Yes, I was.

Hamilton
Q. Okay, what were you doing that particular evening?

Peck
A. I was Medical Officer of the Day, an on-call physician at the Cen, Men's Central Jail for the night.

Hamilton
Q. Okay, prior to coming on tape, I briefly gave you a synopsis of this particular investigation and the facts surrounding the particular case, correct?

Peck
A. That's correct.

Hamilton
Q. Okay, and off tape, you told me that you couldn't recall the particular inmate?

Peck
A. That's right, I have no specific recollection of this

particular incident.

Hamilton

Q. Okay. And this, this inmate was brought down to the clinic by a nurse, Lil, who was one of your staff members that particular night. This person was brought down on a gurney from Module 4400 and he was handcuffed and hobbled. Do you recall seeing anyone that fit that description?

Peck

A. I have seen many inmates fitting that description. I cannot specifically recall this particular time or inmate.

Hamilton

Q. Okay, we're gonna, I'm gonna let you review a County of Los Angeles Department of Sheriff's Medical Records Services report in which you noted seeing this inmate, and if you could just read what you wrote about seeing that particular inmate.

Peck

A. Let's see.

Hamilton

Q. Okay, Dr. Peck's gonna read his notes on that particular evening. I assume you wrote it that particular evening on this inmate.

Peck

A. There's a note in my handwriting signed by me, dated 10-27-94, at 0055, which states, "Involved in altercation, suffered facial lacerations, especially over left eye, to LCMC," which indicated that my intention was to send him to County Hospital for further medical care.

Hamilton

Q. Okay.

Peck

A. There is also, I believe, an order, in the order sheet written by me, stating that the patient is to be transferred to LCMC via ambulance.

Hamilton
Q. Okay. So, it was your instructions, basically, to send this guy to LCMC for additional medical treatment.

Peck
A. That's right. Particularly because of the facial laceration which I did not feel qualified to treat.

Hamilton
Q. Okay. Do you recall examining this person?

Peck
A. I do not specifically recall examining this patient but from the note, I obviously examined him because of his facial injuries.

Hamilton
Q. Oh, okay. Do you re, recall that particular night as far as maybe staff personnel that was possibly on duty at the time?

Peck
A. No, I don't.

Hamilton
Q. Okay. Is there anything else that you can tell us about this particular incident that night, or...

Peck
A. No, there isn't.

Hamilton
Q. Okay, unless you see some sort of notes which will refresh your memory.

Peck
A. There are no other notes written by me that I, reading a nurses notes did not bring back any specific recollection of the incident.

Hamilton
Q. Okay. Do you have a log sheet or anything that's at Men's Central Jail indicating some additional notes you saw inmate so and so...

Peck
A. No, no we don't record anything like that.

Hamilton
Q. Okay. Okay, and you're specialty?

Peck
A. Internal medicine.

Hamilton
Q. Okay. Okay, I guess that's it, short and sweet.

Peck
A. Okay.

Hamilton
Q. The inmate that we were referring to, his name is [redacted] booking number [redacted]. And we're gonna end this interview at 1048.

END OF INTERVIEW

I/M [redacted]

I.A.B. INTERVIEW 10-31-94

WITNESS INTERVIEW

CASE NUMBER IAB 008383

[redacted]

Nemeth:
Q. Today's date is October 31, 1994, time is 1232 hrs. I'm Sergeant John Nemeth from Internal Affairs, my partner is Sergeant Tim Cornell. We're present today at Men's Central Jail, interviewing inmate [redacted] and is your last name spelled [redacted]? Is that right?

[redacted]
A. That is my middle name, though, [redacted] is my real name, (okay) my last name.

Cornell:
Q. What's you're real last name?

[redacted]
A. [redacted].

Nemeth:
Q. [redacted] is your real last name.

[redacted]
A. Yes.

Cornell:
Q. But you're, but you're . . .

Nemeth:
Q. You're booked under [redacted] right?

[redacted]
A. Right, and I told the officer. (okay)

Nemeth:
Q. Your first name is [redacted]?

[redacted]
A. Yes. (okay)

Nemeth:
Q. And is your booking number [redacted]?

[redacted]
A. Yes. (okay)

Nemeth:
Q. And what is your home address?

[redacted]
A. [redacted].

Nemeth:
Q. [redacted]?

[redacted]
A. [redacted].

Nemeth:
Q. Avenue, Street, what, what's [redacted]?

[redacted]
A. [redacted].

Nemeth:
Q. Street. [redacted], what's the zip?

[redacted]
A. It's [redacted].

Nemeth:
Q. And the phone number there?

[redacted]
A. I really don't, that's my sister's, you know, but I always, you know, go there, you know, 'cause it's been a . . .

Cornell:
Q. If we need to get a hold of you through your (yeah) sister, (yeah) we can get you at this address?

[redacted]
A. Yes.

Cornell:
Q. What's your sister's name?

[redacted]
A. [redacted].

Cornell:
Q. And what's [redacted]'s phone number?

[redacted]
A. I really don't know.

Nemeth:
Q. You don't know her phone number?

[redacted]
A. No.

Nemeth:
Q. You don't want the police calling her, do you? You know what the phone number is, you don't want the police calling. That's fine, okay.

[redacted]
A. For some reason, you know, because she (inaudible).

Cornell:
Q. Okay, let me, let me ask you this, [redacted].

[redacted]
A. Yes.

Cornell:
Q. If we need to get a hold of you in case of an emergency, how would we do it?

[redacted]
A. Just, just go down there, you know, leave a message.

Cornell:
Q. Go to her house and leave a message.

[redacted]
A. Yes.

Cornell:
Q. Do you work?

[redacted]
A. Not, not right now, I'm not, I'm not working right now. (okay)

Cornell:
Q. Alright.

Nemeth:
Q. Are you gonna be in, do you expect to be in jail for a while or do you know how long?

[redacted]
A. I just, I just got a violation here.

Nemeth:
Q. Violation?

[redacted]
A. A few tickets, you know, but they're old, you know, so I was waiting, I thought I was gonna leave here last night to Chino, Chino.

Nemeth:
Q. Parole violation?

[redacted]
A. Parole violation.

Nemeth:
Q. To go to Chino? 90 days?

[redacted]
A. Yeah, probably, you know, but I don't know, I don't know what's going on, you know, 'cause my parole is, he, I guess he wanted me to call him up or something, you know, 'cause I've been already more than 90, 90 days here.

Nemeth:
Q. In here?

[redacted]
A. In here. (okay)

Nemeth:
Q. Alright, so what's the phone number at your sister's house? We're not gonna call, probably, but just in case we need to get a hold of you.

[redacted]
A. See, I never, I never, I never phone her.

Cornell:
Q. That's okay.

[redacted]
A. But, but I got in my, in my, in my bag, you know, in my property I got it in there, you know, but I, I need to look.

Nemeth:
Q. Okay, but you don't remember it, that's fine.

Cornell:
Q. That's okay. Alright, she can get you though if we need you, right?

[redacted]
A. Yeah. (okay)

Nemeth:
Q. Okay. You had told us before going on tape, first of all we, we told you before going on tape that we only want you to tell us what you saw and heard, (okay) not something, personally, not something that another urinate told you, okay, or not something you think might have happen. Just what you saw and heard yourself, okay? Alright, were you in Module 4400, Cell B, Baker-4, on October 27th at about 30 minutes past midnight?

[redacted]
A. Yes. (okay)

Nemeth:
Q. And did you hear or learn of something that had happen around about that time?

[redacted]
A. Yes.

Nemeth:
Q. And how did that occur?

[redacted]
A. Well, I was laying down, you know, and I heard a, you know, the . . .

Nemeth:
Q. Were you asleep in your bunk at the time?

[redacted]
A. No, I wasn't asleep, you know, (just laying in your bunk) just laying, you know, 'cause I was kind of sick, you know, after, but I, I never, never like to, you know, see that kind of violence, you know, in my life, in my life, (okay, so) you know, I close my eyes, (okay) you know, and I like to, I don't like to get in trouble and (get in trouble, right) I don't look in there, you know I like to, you know.

Nemeth:
Q. Okay, tell me what happen, you're, you're laying in your bunk, you're not asleep, (no) what happened next?

[redacted]
A. I guess, they, they open the gate and then one . . .

Nemeth:
Q. The gate to your cell opened?

[redacted]
A. Yeah. And the, the, the inmate, the Black brother, you know, he, he went outside or something, you know.

Nemeth:
Q. Do you know his name?

[redacted]
A. No, I really don't. (okay) And then they call him up down there, you know, but like I said, you know, I don't pay that much attention, you know, but after that, you know, later on, you know, I heard something like, "Why do this to me?" Or something like that, you know, and they start you know, they are starting, I was, I was kicking, you know, 'cause I use heroin sometimes.

Cornell:
Q. You were kicking the heroin habit at the time?

[redacted]
A. Yeah.

Nemeth:
Q. So you were sick, going through withdrawals?

[redacted]
A. Oh, yeah.

Nemeth:
Q. And did you ever get out of your bunk and look to see what was happening?

[redacted]
A. No, I didn't. (okay)

Nemeth:
Q. You just heard things?

[redacted]
A. I heard. (okay)

Nemeth:
Q. That's all we're gonna be interested in is what you heard, okay?

[redacted]
A. Yes.

Nemeth:
Q. I'm gonna try and help you through this to go a little slower and see if I can get everything out of you, okay? You're laying in your bed, the gate opens up, and now one of the Black guys in your cell, you know his nickname?

[redacted]
A. I don't know, I really don't.

Nemeth:
Q. If I told you a name, [redacted] it's a nickname, would that ring a bell to you?

[redacted]
A. No.

Nemeth:
Q. No. How about [redacted] No, yes?

[redacted]
A. I think, I, no. (okay)

Nemeth:
Q. Did anybody else leave the cell with him, or do you know?

[redacted]
A. I really didn't pay attention.

Nemeth:
Q. Didn't pay attention.

[redacted]
A. But I heard somebody, you know, they open the gate, you know, like, you know, (yeah) they take a break, a little break, you know, 'cause there's people, you know, we were about eight people in there, you know.

Nemeth:
Q. You're tight, you wanna take a walk, uh-huh.

[redacted]
A. So we can take a little freedom of the rest, and then they come back, (uh-huh) they go back in there. So when they, to me, I wasn't, you know, like I'm telling, just telling you, you know, I was kicking.

Nemeth:
Q. You were sick so, not feeling good.

[redacted]
A. Yeah, I was sick, you know, and they didn't, you know, I, I'm still, you know, I got about maybe since I came down here I got sick (uh-huh) so my mind is not, not, not good.

Cornell:
Q. Your mind isn't real good because of this heroin habit?

[redacted]
A. Yeah. Well because of my, my, my kicking, (withdrawals) kicking, and they didn't give me the right to have medication. I guess they, I was taking after all, you know, after all the, the getting (inaudible).

Nemeth:
Q. So you were on medication at the time, too?

[redacted]
A. I was on medication. (okay)

Nemeth:
Q. So what else did you hear? You heard the gate open and you heard somebody go out, walk around.

[redacted]
A. Yeah, and then, you know.

Nemeth:
Q. And that was [redacted] or a Black person, is that right?

[redacted]
A. They went out and then I heard, you know, like when somebody, you know, starts, you know, fighting or something.

Nemeth:
Q. Did you hear the, did you hear the deputy say anything over the PA?

[redacted]
A. No. O–, over the? (microphone)

Cornell:
Q. Yeah, you know, the mic? Yeah, the public address system, the microphone?

[redacted]
A. Well, I, I heard, you know, like, "Hey, come here!" Or something, you know, well they call him up, you know, and, and like I say, you know, I wasn't, I wasn't . . .

Cornell:
Q. It sounded like they called him up?

[redacted]
A. Yeah, (okay) it sounds like, he call somebody.

Cornell:
Q. Did he say, did you hear him say anything, the Black guy?

[redacted]
A. No.

Cornell:
Q. And then what happen next?

[redacted]
A. And then later on, you know, like I was, you know, later on, you know, I, I, I heard, you know, that they were, you know, like they, they were fighting or something, you know, inside.

Nemeth:
Q. What do you mean? Describe.

[redacted]
A. Yeah.

Nemeth:
Q. Hear a lot of feet or what did you hear, Scuffling, or what are you talking about?

[redacted]
A. Well, they, I guess they, they, they were, you know, getting rough or something, you know.

Cornell:
Q. Okay, hang, hang on a second. You said you think they were hitting him?

[redacted]
A. Yes. (okay)

Cornell:
Q. Tell us exactly what you heard.

[redacted]
A. When I heard, "Why do you," "Why do you do this to me?" Or something but it was kind of, you know.

Cornell:
Q. You heard somebody say something like, "Why did you do this to me?"

[redacted]
A. Yeah.

Cornell:
Q. Okay and then, what other sounds did you hear?

[redacted]
A. Sounds like feet or, you know, like that, they were like that, you know, but I wasn't, you know.

Cornell:
Q. Okay, what you did was you're kind of stepping with your feet, is that what you heard? Kind of a scuffing noise, or what?

[redacted]
A. Yeah, kind of, kind of like that noise and, you know, movements, you know, like when someone is fighting or something.

Cornell:
Q. Did you see anybody *hit* anybody?

[redacted]
A. No, I didn't see nobody. (okay)

Cornell:
Q. And are you *laying* down?

[redacted]
A. I was laying down.

Cornell:
Q. Where?

[redacted]
A. In my bed, right there.

Cornell:
Q. Are you a floor sleeper or you got a bunk?

[redacted]
A. No, I had a bunk.

Cornell:
Q. You got a bunk, which bunk is it?

[redacted]
A. Right there, right there next to the, the door.

Cornell:
Q. It's right by the bars?

[redacted]
A. Yeah.

Cornell:
Q. Left side or right side when you walk in?

[redacted]
A. Right side when you walk in.

Cornell:
Q. When you walk in it's on the right?

[redacted]
A. Right side. (okay)

Cornell:
Q. And did you look out those bars and see anything going on?

[redacted]
A. No. I didn't, I didn't see 'cause through the bars, you can't, you cannot see all the way down to the, to the stairs.

Nemeth:
Q. You have to get out and look out the gate, right?

[redacted]
A. Yeah, right, through the gate and, you know.

Cornell:
Q. Did you ever get out of your bunk?

[redacted]
A. No, I didn't get out. I got out, you know, when, when the White man came down, he was telling [redacted] "What happen?"

Cornell:
Q. Another inmate came back? Another inmate came?

[redacted]
A. The, the White guy, you know [redacted]

Cornell:
Q. Uh-huh.

[redacted]
A. That's when, when I, I, I, I said, I'm awake, you know, I was listening.

Cornell:
Q. Did he come down and tell you what happen?

[redacted]
A. Yeah, he was telling us.

Cornell:
Q. Was he? Did you see any of the stuff that he was telling you?

[redacted]
A. No, I didn't see nothin'.

Nemeth:
Q. Did a deputy come or any deputy come and talk to you, ask you if you saw anything?

[redacted]
A. A day before, a day after or two days after.

Nemeth:
Q. Two days after (the) the incident?

[redacted]
A. Yeah, the incident. (okay) I think two days, right.

Nemeth:
Q. That would be two days ago?

[redacted]
A. Yeah, I think it was yesterday or a day before yesterday.

Nemeth:
Q. Day before yesterday. What did he say to you?

[redacted]
A. No, he didn't say nothing to me, you know, they ask [redacted] and all, I mean, the other guy.

Nemeth:
Q. What other guy?

[redacted]
A. The, the other Black dude.

Nemeth:
Q. The Black dude that, that's out here?

[redacted]
A. [redacted] is his last name.

Cornell:
Q. [redacted] Did they ask you if you saw anything?

[redacted]
A. I don't think so, maybe, I don't know if they ask me.

Cornell:
Q. They didn't ask you if you saw anything? No?

[redacted]
A. No.

Nemeth:
Q. Did, did, did you hear what the deputies were asking [redacted] and [redacted]

[redacted]
A. You know, "What happen?" You know.

Nemeth:
Q. They say anything else to 'em?

[redacted]
A. No, I don't think, they, they didn't say, not that much, you know, they, they, they just walk and you know about the time they fight, you know.

Nemeth:
Q. Did you ever hear the deputies threaten them? (no) If they say if they saw something they would be in trouble or go to the hole or something like that?

[redacted]
A. No. (okay)

Cornell:
Q. Okay so, do you know what happen to this guy? Do you know what happen to this inmate?

[redacted]
A. To this guy?

Cornell:
Q. Yeah.

[redacted]
A. Well, no, I really don't know, you know, but . . .

Nemeth:
Q. Just what you heard?

Cornell:
Q. Just what you heard?

[redacted]
A. Yeah, what I heard, you know, and what, what I heard when (with your ears, right) I sleeping in the bed, you know, and, and I, you know, I can imagine, you know, what's going on, you know, I don't have to see sometimes, (uh-huh) the things with my own eyes.

Nemeth:
Q. Right, sure.

Cornell:
Q. Okay, but see for us, see for us, we need to have people that *saw* it, tell us, you know, we can't just imagine what happen because it doesn't work that way with us.

[redacted]
A. Yeah, well, that's, that's fine.

Cornell:
Q. And, and that's fine, whatever you saw or whatever you heard, that's what you did. We're not, (Nemeth: It's just fine, that's all we want to know.) you know, we just wanted you to tell us what you know about it, what you saw.

[redacted]
A. Yeah, that's, that's all I know.

Nemeth:
Q. Did you see anybody in your cell looking out the gate or anything like that, looking down there?

[redacted]
A. Yeah, the only, there were a couple of guys, you know, but I, the guys.

Nemeth:
Q. Couple of guys were looking, trying to see?

[redacted]
A. Yeah, one of the other guys.

Nemeth:
Q. You know who they were?

[redacted]
A. No, I didn't pay attention, to tell you the truth.

Nemeth:
Q. Well, you could tell me who they were, you know.

[redacted]
A. Well one of them it was, it was [redacted]

Nemeth:
Q. One of them was [redacted]?

[redacted]
A. Yeah.

Nemeth:
Q. Who was the other one?

[redacted]
A. But the other, the other one I don't, like I say, you know, I was kind of real sick for me to remember.

Cornell:
Q. What color was he?

Nemeth:
Q. Was he White, Black, Mexican?

[redacted]
A. No, I, I can't describe, I can't.

Cornell:
Q. He's your cellee and you don't know who he is?

[redacted]
A. I really don't, you know, 'cause I was too much in kind of pain or something and that I didn't, you know, I didn't and like I'm saying, I don't like to see those things. (uh-huh) Since I was just a kid, you

know, I, I, I was born fighting, you know, instantly, (right) violence you know, (yeah) and you know, (okay) I just like to live in peace.

Nemeth:
Q. Alright.

Cornell:
Q. Is there anything that you know about this or that you saw or heard that you can tell us that we haven't asked you?

[redacted]
A. No. I think that's, that's all you know.

Cornell:
Q. That's it?

Nemeth:
Q. Okay, thank you for your time. We'll end the taped interview at 1244.

I/M [redacted]

I.C.I.B. INTERVIEW 12-7-94

[redacted]

Hamilton
Q. Okay, today's date is December 7, 1994, it is approximately 1700 hours. We're here at Men's trusties Central Jail in the 7000 floor conference room. We're going to be discussing an incident that occurred on October 27th of 1994, in module 4400, on early morning shift. We're going to be talking to inmate [redacted] booking number [redacted]. This case is being investigated under ICIB file number 494-00023-2300-444. Present in the room is Sergeant Ron Bell and myself, Sergeant Eric Hamilton from ICIB. Okay, Mr. [redacted] were you in module 4400 on October 27th of 1994?

[redacted]
A. Yes, I was.

Hamilton
Q. Okay. Were, what were you doing there?

[redacted]
A. I was working as a trusty there.

Hamilton
Q. Okay, were you also housed there?

[redacted]
A. Yes, I was.

Hamilton
Q. Okay, did you see an incident or an altercation between a deputy and an inmate?

[redacted]
A. Yes, I did.

Hamilton
Q. Okay. What time did that happen, do you know?

[redacted]
A. That's 1:30, 2:00, I guess.

Hamilton
Q. Okay. Is that in the morning or afternoon?

[redacted]
A. In the morning.

Hamilton
Q. Okay. Where were you when you saw this incident, initially?

[redacted]
A. When it started, I was standing right next to the, the, this Charlie row's (inaudible) gate.

Hamilton
Q. Charlie row...

[redacted]
A. ...(inaudible) gate. The, the gate.

Hamilton
Q. Okay. The row gate...

[redacted]
A. Row gate.

Hamilton
Q. Okay. If you're walking into the module, would Charlie row be to the right or to the left?

[redacted]
A. To, the far one on the left.

Hamilton
Q. Okay, and you were just standing there?

[redacted]
A. Right.

Hamilton
Q. Okay. Can you tell me what happened between the deputy and

the inmate, and prior to that, if you can just tell me if you know who the deputy was?

[redacted]
A. It was Deputy Kluth.

Hamilton
Q. How do you know that?

[redacted]
A. Because that's the officer I work for every night.

Hamilton
Q. Okay. What was his assignment that particular night?

[redacted]
A. The Dorm Officer.

Hamilton
Q. Okay, okay. What happened?

[redacted]
A. There, there was an inmate walking up and down on Baker row and Deputy Kluth kept on telling him to go back to his cell. The inmate just started, kept on hiding. So he told me to go in there and find out, look for him and he said, "Do you see him?" I said, "No," and then he, he found him and he was leaning against the wall and he told him to go back to his cell. The inmate ran into the day room. So he said, "Do you see him?" I said, "No, I don't see him," and he said he looked and he seen him in the Day Room. So I guess he called another officer because Deputy Sloan came in and relieved him.

Hamilton
Q. Okay, so Deputy Sloan came in to the module...

[redacted]
A. ...Into the module.

Hamilton
Q. Went into the booth?

[redacted]

A. Into the booth, and, and Deputy Kluth came out and Deputy Sloan told him, "Oh, you're the lucky one, you get all, have all the fun," or something to that effect. And, so Deputy Kluth went and got out and he went down and got the inmate and brought him up the stairs.

Hamilton

Q. Okay. So Deputy Kluth left the booth and went down...

[redacted]

A. ...Down on Baker row to get the inmate that was walking around.

Bell

Q. In the day room?

[redacted]

A. Yeah.

Bell

Q. Where did he find him?

[redacted]

A. In the day room, pulled him out of the day room.

Hamilton

Q. Okay.

Hamilton

Q. Did you see that?

[redacted]

A. No, he told me, well he didn't actually pull him out. What he did was, he told, "Come out," and the guy came out.

Hamilton

Q. Okay.

[redacted]

A. And then he grabbed him, and then he took him from, from Baker row to over by Abel row, by the "A" row gate against the wall, and tried to throw him against the wall.

Hamilton
Q. When you say throw him, did he...

[redacted]
A. ...Right...

Hamilton
Q. ...Shove him, did he...

[redacted]
A. ...Grabbed him by the shirt and pushed him to the wall.

Hamilton
Q. Okay. The front or back? Was he...

[redacted]
A. ...In the back.

Hamilton
Q. Okay.

[redacted]
A. Well (laugh), I guess the, the inmate just sort of turned on Deputy Kluth, they started, he, like, started wrestling at first, and then he body slammed Deputy Kluth. Picked him up and threw him to the floor (laugh).

Hamilton
Q. You mean he literally picked him up in the air?

[redacted]
A. Yeah, he just grabbed him by the shirt, you know, raised him slightly and then threw him.

Hamilton
Q. ...Okay...

[redacted]
A. And he landed on the ground.

Hamilton
Q. Okay.

[redacted]
A. Okay, they were just wrestling around right there and then all of a sudden. You see, there's, oh, okay before that happened, there was three of us working, well, two of us working and one, another inmate was out of his cell that night, and, and there was one locked in the shower.

Hamilton
Q. Okay. What shower?

[redacted]
A. Baker row shower.

Hamilton
Q. What did he look like?

[redacted]
A. He's a white guy.

Hamilton
Q. What else? Dark hair?

[redacted]
A. Blonde hair, skinny.

Hamilton
Q. Moustache, beard?

[redacted]
A. No moustache.

Hamilton
Q. How tall was he?

[redacted]
A. About my height, five-eight, five-nine.

Hamilton
Q. And when you said he was skinny, how thin was he?

[redacted]
A. Probably maybe 170, I guess.

Hamilton
Q. Do you know where he, he was housed?

[redacted]
A. He was in Baker four.

Hamilton
Q. How do you know that?

[redacted]
A. Because he got in trouble and they took a walk around and locked him in the shower.

Hamilton
Q. But, how do you know he came from Baker 4?

[redacted]
A. Because that was the cell that he told, because that was the same cell that the black dude came out.

Hamilton
Q. Who told you that?

[redacted]
A. Huh?

Hamilton
Q. Who told you that?

[redacted]
A. I was, okay what happened was, there was a guy going to state line, to Chino.

Hamilton
Q. Okay.

[redacted]
A. And they opened up Baker 4 to let him out and that's when the white guy came out and he told him to go into the shower, they locked him in the shower, and that's when the black guy got out. He was running around.

Hamilton
Q. Did you see that?

[redacted]
A. Yeah.

Hamilton
Q. Okay, okay, go ahead.

[redacted]
A. And, so they were on the ground wrestling, then the inmate that was on the phone, inmate [redacted] [actually [redacted]] was on the phone, he ran out the door.

Hamilton
Q. Out what door?

[redacted]
A. Out the front, one gate, one door.

Hamilton
Q. He ran into the hallway...

[redacted]
A. ...In the hallway...

Hamilton
Q. ...4000?

[redacted]
A. Right.

Hamilton
Q. Is he a trusty, or?

[redacted]
A. No, he wasn't even supposed to be out there. He was just, he was on the phone.

Hamilton
Q. Okay.

[redacted]
A. So, he takes off and then the deputy, three deputies ran in and I was standing by the gate and they started running towards me. There was Deputy [redacted] Deputy [redacted] another deputy, I don't know what his name is.

Hamilton
Q. How do you know who these deputies were?

[redacted]
A. 'Cause I see them every day.

Hamilton
Q. Okay. You said [redacted]...

[redacted]
A. It was, I think it was [redacted] and [redacted]

Hamilton
Q. And that's it, or...

[redacted]
A. And there was another deputy, but I don't know what his name was.

Hamilton
Q. Do you know what he looked like?

[redacted]
A. I can't remem-, really remember that one.

Hamilton
Q. Okay. Alright, who came through the door first?

[redacted]
A. [redacted]

Hamilton
Q. Okay, and then?

[redacted]
A. And then [redacted]

Hamilton
Q. Okay.

[redacted]
A. And then the other deputy.

Hamilton
Q. Okay.

[redacted]
A. 'Cause they rushed in, they started running towards me. So what I did, I stepped back and I, put and opened up the (inaudible) gate, and I stepped inside, and that's when, and then I looked out when I saw them wrestling on the ground.

Hamilton
Q. Okay.

[redacted]
A. So I was standing there watching.

Hamilton
Q. Okay.

[redacted]
A. And then Deputy [redacted] ran over there, the first thing he did was grab the dude by the nuts.

Hamilton
Q. Okay. Let's get a clearer picture of what happened. The deputy and the inmate are rolling around on the floor.

[redacted]
A. Right.

Hamilton
Q. Where are they rolling around on the floor?

[redacted]
A. ...Right, okay they're rolling by Baker row showers on the floor underneath that Kirk Gibson picture.

Hamilton
Q. Okay, so they were, they moved from...

[redacted]
A. ...From Abel side to Baker side, Baker door side.

Hamilton
Q. Okay, they're rolling on the floor...

[redacted]
A. ...Right.

Hamilton
Q. And then Deputy [redacted] grabbed...

[redacted]
A. ...The inmate by the nuts.

Hamilton
Q. What did the other deputies do?

[redacted]
A. They jumped on him, like Trent. [redacted] just like grabbed him on his waist and was trying to pull him off, and the other deputy was by the head.

Hamilton
Q. By the hair?

[redacted]
A. The head.

Hamilton
Q. Head. What was he doing to the head?

[redacted]
A. It looked like pulling it back, I guess. Yeah, he was pulling his head back.

Hamilton
Q. Okay. How were they positioned?

[redacted]

A. For, Deputy [redacted] was on, on the bottom part of his body, and [redacted] was the middle, and the other deputy was on top.

Hamilton

Q. Okay.

[redacted]

A. Looked like he had his knee against the guy's neck, you know.

Hamilton

Q. Who did?

[redacted]

A. The third deputy.

Hamilton

Q. Okay. Was he on the side of him, in the front of him, or behind him when he had his knee?

[redacted]

A. No, he had, the, the inmate had his back towards all three of them.

Hamilton

Q. Where were the, the deputies, the one with the neck, the knee in the neck?

[redacted]

A. He was in front with his knee on top of his neck.

Hamilton

Q. Okay. Where was Kluth?

[redacted]

A. He was, he was on the other side. See, the inmate was on the ground with his back towards me, and towards Charlie row. Okay? Deputy [redacted] was in between, I mean, Deputy Kluth was in between the inmate and the fence, the shower.

Hamilton

Q. Okay.

[redacted]
A. Okay? And the other officers, when they came in, they were on the back side.

Hamilton
Q. Okay.

[redacted]
A. Okay? When they got there, I guess, when he squeezed his nuts, that's how Kluth got loose, and then...

Hamilton
Q. ...The guy released his hold or?

[redacted]
A. I guess so, 'cause then Kluth was standing up all of a sudden.

Hamilton
Q. Okay.

[redacted]
A. And he, and all, all I heard him saying was, "Mother fucker," and then he started swinging, and he was on...

Hamilton
Q. ...Who was that?

[redacted]
A. Kluth.

Hamilton
Q. Okay.

[redacted]
A. And he started punching the guy.

Hamilton
Q. Where?

[redacted]
A. All over, probably, mostly in the face it looks like.

Bell
Q. So, is the inmate down at this time?

[redacted]
A. Yeah, he's like, he went, okay, when, when the officers came in, when the officer grabbed him by the nuts, I heard the inmate say, "Okay, I give up." I heard him say that.

Hamilton
Q. Okay. Go ahead.

[redacted]
A. Okay, then when the Officer Kluth got loose, that's when I looked over and he's over there swinging like crazy over there saying, "You Mother Fucker," and, and then, they're struggling, when he's swinging then that's when a whole bunch of other officers came in and they, and then the officers, the tall white officer with a flat top, he told me to go to the day room.

Hamilton
Q. Okay, so you had ([redacted] blows nose), you had Kluth wrestling with this guy...

[redacted]
A. ...Uh-huh.

Hamilton
Q. You had three deputies come in, you said, [redacted] [redacted] and some unknown third deputy come in...

[redacted]
A. ...Right, right.

Hamilton
Q. And they start to assist Kluth...

[redacted]
A. ...Right...

Hamilton
Q. ...In this altercation. [redacted] grabs the guy's balls...

[redacted]
A. ...Right.

Hamilton
Q. Okay. And Kluth manages to get up.

[redacted]
A. Right.

Hamilton
Q. Gets up, "mother fucks" this guy...

[redacted]
A. ...And starts swinging.

Hamilton
Q. ...And starts whaling. What is it, the other three deputies do?

[redacted]
A. Well, when he's swinging, that's when the other officers came in.

Hamilton
Q. What did the other three do?

[redacted]
A. They were still holding him?

Hamilton
Q. Just holding him down?

[redacted]
A. Right, because...

Hamilton
Q. ...How were they doing that?

[redacted]
A. They're still in the same positions that they were standing in. [redacted] was on his, on his middle side, like grabbing him around the waist and the other one still had his knee on his head.

Hamilton
Q. This, this third deputy, what does he look like?

[redacted]
A. He's a white deputy. It's, I couldn't really describe him cause I couldn't really, you know, there's, I don't even know who he is.

Bell
Q. Okay. All, all you can say is he's...

[redacted]
A. ...Just, just a white deputy, that's all I can, cause I got...

Bell
Q. ...Not tall, not short, just average?

[redacted]
A. I can't really say that.

Bell
Q. Okay.

[redacted]
A. I know there was three of them, but I couldn't, I can't even remember who the third one was. I know for a fact...

Bell
Q. ...He's not Hispanic and he's not black?

[redacted]
A. No. I don't think so.

Bell
Q. You don't think so, or you know so?

[redacted]
A. That's what I'm saying, I can't really, it looked like a white deputy, but I'm not sure.

Bell
Q. He could have been Hispanic?

[redacted]

A. He could, could have been.

Hamilton

Q. If he was black, he was as light skinned as my partner?

[redacted]

A. Yeah, but I couldn't really say that, so. When the other deputy walked, came in, they told me to go to the day room.

Hamilton

Q. The other deputy? Or deputies?

[redacted]

A. Deputies. The other one.

Hamilton

Q. Three more came in?

[redacted]

A. There had to be, well, five or six.

Hamilton

Q. Okay.

[redacted]

A. When they came in, they told me to go back up to the day room, so I went up in the day room, and all of a sudden, all I heard was screaming.

Hamilton

Q. Okay. What else?

[redacted]

A. Okay, well, when I heard the screaming and stuff, and then next thing I was still hearing, listening to it, and could hear, I couldn't really say when it was, but, you know, you could hear the guy screaming, and then when I was sitting up there waiting and then the nurse came in and I heard her say, "Oh, my God," and then after they wheeled him out, the deputy came and got me and told me, first that this tall deputy, white deputy, the same one I told you, he pulled me to the side and he says, "What did you see?" I said, "I was in the day room." He says, "Good, just keep with that

story," and went like that.

Hamilton
Q. Who was this deputy?

[redacted]
A. I don't know. He's a tall white guy with a flat top, with a Marine Corps haircut.

Hamilton
Q. Could you identify him if you saw him again?

[redacted]
A. The other officer said if I ever saw him to let him know 'cause he doesn't work that floor and I know pretty much all the deputies who work that floor.

Hamilton
Q. Could you identify the, well let's start off with the, if you saw a picture of that third deputy that you can't identify at this point?

[redacted]
A. I might be able to, I'm not sure.

Hamilton
Q. How about the four that came in later?

[redacted]
A. I might.

Hamilton
Q. Did you identify them for the IA investigator?

[redacted]
A. I couldn't. He showed me six pictures and I identified well all of them, the ones that I, the ones that, that were mainly the first ones involved, the ones I saw.

Hamilton
Q. Were you sure that that was Deputy [redacted] and [redacted] Are you absolutely sure?

[redacted]

A. Definitely.

Hamilton

Q. Could they have come in later? Okay.

[redacted]

A. Nope.

Hamilton

Q. Okay. Go ahead.

[redacted]

A. Okay, well after he told, the deputy told me that, you know, "Good, that's all you saw," then when I looked, there was blood everywhere, on the walls, on everything else. So he says, "Okay," he goes, "I want you to go get some rags, I want you to clean that stuff up." He said put it in a plastic bag and take it to the elevator. Throw it in the trash." I said, "Okay." So, I cleaned it up and put all the bloody stuff in the bag and stuff and he told me, "no." Then he came back and he said, "No," he said, "bleach the floor and clean the wall real good." So I did, and then he came back and said, "Okay, that's better." And he said, "Give me, well, you got all the stuff in the same bag," And I said, "Yeah." He told me to put it in another bag, which I did, and he told me to take it to the elevator and make sure it goes down.

Hamilton

Q. Did you think that was suspicious?

[redacted]

A. Well, yeah.

Hamilton

Q. Why?

[redacted]

A. Because, you know, just like, like I was treated. If I got in a fight in a bar or I hurt somebody and there was blood, before they wipe it up, the officers would have took pictures, of this crime scene. It's all cover up, I know that.

Hamilton
Q. Well, we'll talk about that...

[redacted]
A. Alright.

Hamilton
Q. ...off tape, because a lot of times what you consider a crime scene, they don't.

[redacted]
A. Yeah.

Hamilton
Q. It's a different type of mentality all together. So, it may not be this conspiracy as you would think because you can't always compare what happens out there on the street to what happens in here, it's a whole...

[redacted]
A. ...Yeah, I know...

Hamilton
Q. ...different monster, it's, it's just a different mind-set.

[redacted]
A. Yeah.

Hamilton
Q. But that's another thing. Okay. Anything else happen?

[redacted]
A. Just I cleaned it up and then, and like, then the officers didn't really say nothing to me.

Hamilton
Q. Okay. Did you see a senior or sergeant there? Or sergeants, lieutenants?

[redacted]
A. I saw a sergeant there, but I don't remember which one it was.

Hamilton
Q. Okay. Did you tell him what happened?

[redacted]
A. No, he didn't talk to me.

Hamilton
Q. Okay.

[redacted]
A. The person I talked to was the officer from Internal Affairs.

Hamilton
Q. Did you ever see the inmate prior to him going to the clinic and after you went to the day room?

[redacted]
A. No, I never seen him come back.

Hamilton
Q. So, did you ever see him, once you went up to the day room, you didn't see him again, correct?

[redacted]
A. No, they came and got him in the stretcher and took him out.

Hamilton
Q. So you never saw, did you see them take him out on the stretcher?

[redacted]
A. I saw, well, I saw him from a distance, I seen his face and everything like that.

Hamilton
Q. Okay. So did you see the deputies handcuff him?

[redacted]
A. No, I didn't see that.

Hamilton
Q. Did you see them put any hobble restraint on his feet?

[redacted]
A. No.

Hamilton
Q. You didn't see that?

[redacted]
A. No.

Hamilton
Q. Did you see the deputy, other than Kluth, hit this guy? Did you see any other deputy hit him?

[redacted]
A. No, one with the, I think, I don't know the deputy's name, but the one with, that was holding his head...

Hamilton
Q. ...His head?

[redacted]
A. The one that was holding, had his knee on his head, he was swinging.

Hamilton
Q. Okay.

[redacted]
A. But I don't know what part of the body, his upper torso that he was hitting.

Hamilton
Q. Okay. Why don't you know what part of the body he was hitting?

[redacted]
A. 'Cause he had his back towards me. All I could see, his arm moving.

Hamilton
Q. What part do you think he was hitting, or...

[redacted]
A. ...The upper, upper, upper torso.

Hamilton
Q. Upper torso, or...

[redacted]
A. ...The back of the head, the front, upper shoulders.

Hamilton
Q. Okay, okay, okay. Was this guy struggling, the inmate, or was he...

[redacted]
A. ...Oh sure, sure. Like kneeling down, you know how you kneel down?

Hamilton
Q. Okay.

[redacted]
A. I've had the feeling (laugh).

Hamilton
Q. If, if, if he was, if the inmate's laying down, his, was the deputy in front of him, and kneeling down...

[redacted]
A. ...The inmate was like on his side.

Hamilton
Q. Okay, what side?

[redacted]
A. On his, on, he would be on his right side.

Hamilton
Q. Okay, the inmate was on his right side...

[redacted]
A. ...Right. Okay, the deputy, one deputy, the Deputy [redacted] was at the back end with his hand between the inmate's legs.

Hamilton
Q. And that's all you had, one hand, what hand was that?

[redacted]
A. It would have to be his left hand.

Hamilton
Q. It would have to be?

[redacted]
A. Yeah.

Hamilton
Q. Why is that?

[redacted]
A. Because he, he didn't have his hands backwards, like this. Where his hand was twisted like that, 'cause...

Bell
Q. He's on the guy's right side...

[redacted]
A. ...Yeah, so if he had to go in, he would have it like, 'cause it was straight up, so his hand would have to be this hand.

Hamilton
Q. Okay. Did he go and grab this guy's crotch from the front or from behind?

[redacted]
A. From the rear, from the back.

Hamilton
Q. Okay, so this guy's laying on his right side, the deputy came from behind...

[redacted]
A. ...Between his legs and just grabbed him.

Hamilton
Q. Okay. Did he do anything with them, or he just grabbed them?

[redacted]
A. He just squeezed them.

Hamilton
Q. How many times?

[redacted]
A. He must have, I don't know, he just held onto 'em, 'cause I heard the inmate say, "I give up, I give up."

Hamilton
Q. Okay. Alright. Okay, then the deputy, then the other deputy was on this guy's neck, correct?

[redacted]
A. Right. He had his...

Hamilton
Q. ...Kneeling down?

[redacted]
A. Yeah, one knee was on the cement, the other one on the back of his neck.

Hamilton
Q. Okay. And he...

[redacted]
A. ...On the side of his neck.

Hamilton
Q. Okay. He was behind him?

[redacted]
A. Behind him. They all thought that he was, [redacted] and [redacted]

Hamilton
Q. And [redacted] was...

[redacted]
A. ...Just in the middle, just like holding the guy by his sides.

Hamilton
Q. Was he holding him down and trying to pull him up, or what was he trying...

[redacted]
A. ...Like, you know, yanking him up, you know.

Hamilton
Q. So, he was, did it look like he was trying to get him up on his feet?

[redacted]
A. Yeah.

Hamilton
Q. Okay. Did anybody appear to be putting on handcuffs or trying to do that?

[redacted]
A. No.

Hamilton
Q. Did anybody ask the guy to stop or put your hands behind your back?

[redacted]
A. No, they didn't. No, the only person I ever heard about anything like giving up, was the inmate, laying on the floor and said, "I give up."

Hamilton
Q. What was the inmate doing while the deputies were in there? Was he just laying passively, was he moving around?

[redacted]
A. He was yelling. He wasn't, he wasn't, there was no movement, he wasn't swinging no more.

Hamilton
Q. I didn't ask you if he was swinging. I asked you was he moving around?

[redacted]
A. No.

Hamilton
Q. Okay, he, he was just laying there?

[redacted]
A. Yeah, the way they had him, he, he wasn't moving.

Hamilton
Q. Was he attempting to move?

[redacted]
A. No, he, he said he gave up.

Hamilton
Q. Okay. Well, you're saying that he had stopped fighting, was he fighting before?

[redacted]
A. Well, well, the only time he was fighting, he was wrestling, was when he was wrestling Officer Kluth.

Hamilton
Q. Uh-huh. And where were you when all this happened again, when you...

[redacted]
A. Right by...

Hamilton
Q. ...Once you went through the row gate, once you went through the row gate, where did you go?

[redacted]
A. No, when the, when that, when that was happening I was standing right there by the row gate.

Hamilton
Q. Okay.

[redacted]
A. Right there in Charlie, right there where the gate opens, I

was standing right there.

Hamilton
Q. So when the deputies were, when the three deputies came in, [redacted] and this other deputy came in, you were in the sally port area?

[redacted]
A. I was in the sally port, right by Charlie gate.

Hamilton
Q. Okay, 'cause I thought you said earlier, as soon as the deputies came in, they started going towards you...

[redacted]
A. ...Right...

Hamilton
Q. ...And then you went down the row.

[redacted]
A. No, no, no, that's...

Hamilton
Q. ...And I opened the row gate and...

[redacted]
A. ...I opened up the row gate and then they turned and looked and saw, then they went that way.

Hamilton
Q. Okay. So you...

[redacted]
A. ...At first they were coming towards me...

Hamilton
Q. ...Right...

[redacted]
A. ...And when I saw that, I opened the gate to go in...

Hamilton
Q. ...Right...

[redacted]
A. ...I didn't say I went in.

Hamilton
Q. Okay. So you didn't go in?

[redacted]
A. No. I was just, just standing right there, and then they rushed the other way.

Hamilton
Q. Okay.

[redacted]
A. And then the, when the other officers came in...

Hamilton
Q. ...Okay...

[redacted]
A. ...That's when the officer told me to get to the day room and that's when I left.

Hamilton
Q. Okay. Where is the day room located, the one that you're referring to?

[redacted]
A. The Charlie row day room?

Hamilton
Q. Yes.

[redacted]
A. It's up the stairs, the shower, it's called the shower gate, and the next gate, about, about 25, 20 feet away from the gate.

Hamilton
Q. Okay, so instead of going down...

[redacted]
A. ...I went up...

Hamilton
Q. ...You go up...

[redacted]
A. ...Right...

Hamilton
Q. ...To the day room.

[redacted]
A. Right.

Hamilton
Q. And how far is that away from the opening, the gate inside?

[redacted]
A. About 20 feet.

Hamilton
Q. Okay. Could you have seen what was happening afterwards?

[redacted]
A. I just saw when they would put the guy on the stretcher.

Hamilton
Q. Okay, but you couldn't have seen the deputy struggling with this guy once you went down the row?

[redacted]
A. Right.

Hamilton
Q. Okay, okay.

[redacted]
A. I could tell you for a fact, the guy wasn't bleeding when I, when I left.

Hamilton
Q. Okay. And you say Kluth was hitting this guy...

[redacted]
A. ...Right.

Hamilton
Q. On his upper torso, or lower, or all over?

[redacted]
A. All over the place, he was just mad.

Hamilton
Q. Okay. Did you ever see him kick this guy?

[redacted]
A. No...

Hamilton
Q. Did you actually see it?

[redacted]
A. No, cause the guy had Kluth by the legs. You know what I'm saying? He was, Kluth was like, he wasn't all the way up when he started swinging.

Hamilton
Q. Okay.

[redacted]
A. 'Cause he, when he had Kluth underneath him at first, and when they start pulling him off, that's when Kluth got popped like his upper body, like he was on his knees sort of?

Hamilton
Q. Right.

[redacted]
A. Then he started swinging.

Hamilton
Q. So you said the guy had Kluth by his legs so he wasn't able to kick him?

[redacted]
A. Right.

Hamilton
Q. Okay. So he grabbed both arms, one arm, around Kluth's legs.

[redacted]
A. No, it was like, the guy was on his side, and Kluth was getting up, so I guess it, I couldn't see where his arm was, it was like he was on his knees when he was swinging, so I really couldn't tell if the guy had his arms around his legs or not.

Hamilton
Q. Okay, do you know where he had his, how did he have his legs?

[redacted]
A. It was just like he was on his knees.

Hamilton
Q. Okay, so now you're saying he didn't have his, his legs...

[redacted]
A. ...No, I don't say, I said I don't know if he had hold of his legs.

Hamilton
Q. Okay, alright.

[redacted]
A. But (inaudible), he couldn't get up, you know, you could tell he was trying to get up, so I guess he was, but I can't really say, I didn't see that.

Hamilton
Q. How long between the, the, the altercation between Kluth and this inmate started and the first group of deputies arriving, how long do you think that took?

[redacted]
A. About ten, fifteen seconds.

Hamilton
Q. Ten, fifteen seconds?

[redacted]
A. Yeah.

Hamilton
Q. How about the second group of deputies?

[redacted]
A. It was a little longer than that. About, it was a lot longer than that, a couple, about a minute or so.

Hamilton
Q. Okay. How long did, did the entire incident occur, from the moment you saw this deputy pull his, the inmate off of "B" row, till the hospital staff arrived?

[redacted]
A. About 45 minutes to an hour.

Hamilton
Q. 45 minutes?

[redacted]
A. When the hospital staff took him away, yeah, about that.

Bell
Q. Okay. That's when they took him away?

[redacted]
A. Yeah.

Hamilton
Q. Or they showed up?

[redacted]
A. Well, I saw when the nurse came in, when she could come in, when she came in they took him right away.

Hamilton
Q. Okay.

[redacted]
A. 'Cause I, I know when she came in, cause the first thing she walked in she said, "Oh, my God."

Hamilton
Q. Okay. When they walked in, were you still in the back of the

day room or where were you positioned?

[redacted]
A. I was standing right in the gateway.

Hamilton
Q. Back up on the row?

[redacted]
A. In the day room, you know, there's a regular gate just like a regular cell...

Hamilton
Q. ...Okay...

[redacted]
A. ...I was standing right in there.

Hamilton
Q. And that's where you were the entire time, or?

[redacted]
A. Yeah.

Hamilton
Q. Okay. Did you hear the inmate saying anything once...

[redacted]
A. ...No, not after, the only thing I heard him say was when he said he gave up and then it was like, then the screaming. That's it.

Hamilton
Q. Then the screaming, when did the screaming come in?

[redacted]
A. The screaming was, he screamed a little bit when they, they got him by the nuts, and he was yelling, "I give up," but then he started yelling really bad when...

Hamilton
Q. ...What was he yelling?

[redacted]
A.   Just screaming. Like he was hurting.

Hamilton
Q.   How long did that last?

[redacted]
A.   Not that long, about a few seconds. That's when all the other officers came in, though.

Hamilton
Q.   You didn't hear any more yelling?

[redacted]
A.   No.

Hamilton
Q.   None?

[redacted]
A.   None.

Hamilton
Q.   How about by the deputies?

[redacted]
A.   I heard a lot of laughing.

Hamilton
Q.   By officers?

[redacted]
A.   Yeah.

Hamilton
Q.   Laughing. Did you hear any comments made by the deputies?

[redacted]
A.   No.

Hamilton
Q.   Did you hear the inmate laughing or yelling or crying or?

[redacted]
A. He was, when he was, like, I heard him yelling when he was getting hit.

Hamilton
Q. Okay. But I'm talking about once the deputies started laughing and it was over...

[redacted]
A. ...No, I didn't hear no more from the inmate.

Hamilton
Q. He wasn't saying anything?

[redacted]
A. No.

Hamilton
Q. Okay. How about Deputy Sloan? Did you say he went to the booth, right?

[redacted]
A. He was in the, okay, when Deputy Sloan, he was in the booth when it started, when it first happened. Okay, when they started wrestling, he ran and got on the phone.

Hamilton
Q. Okay, how do you know that?

[redacted]
A. 'Cause I saw him.

Hamilton
Q. Okay.

[redacted]
A. And then...

Hamilton
Q. ...Good.

[redacted]
A. (Laughs) I saw the guy on the phone, okay, and then that's

when inmate [redacted] ran out the door, as soon as this stuff happened, oh, he ran out the door.

Hamilton
Q. Right.

[redacted]
A. When he ran out the door, I backed up and that's when the officers came in, but then once it all started, when the other officers came in, I didn't see Deputy Sloan no more.

Hamilton
Q. Okay.

[redacted]
A. When I, when they made...

Hamilton
Q. ...When the first group of deputies came in, or when the second group?

[redacted]
A. The second group came in.

Hamilton
Q. Okay you, go, go ahead, I'm sorry.

[redacted]
A. 'Cause they made me go the day room, so I was up in the day room and the way the day room is, you see where the phones are, he took off down the other way and I didn't see him after that.

Hamilton
Q. Did you see any other deputies responding, did you see any other deputies in there after the second group arrived, anybody else?

[redacted]
A. The only one I saw walking in the inside the, the, the control booth, was a nurse.

Hamilton
Q. Okay, okay. Did you see any other inmates besides [redacted]

[redacted]
A. [redacted] and [redacted]

Hamilton
Q. Okay, and who are those people?

[redacted]
A. [redacted] was a trusty that he worked, when he was the only one who works with me.

Hamilton
Q. Where was he located when this incident occurred?

[redacted]
A. Down Denver row.

Hamilton
Q. Down Denver row? So that's actually, is that up towards the day room?

[redacted]
A. Right where the, the last gate, the last row right by the shower where the other inmate was, there's an inmate inside the shower...

Hamilton
Q. ...Right...

[redacted]
A. ...Where they were wrestling, was a shower, I told you?

Hamilton
Q. That's in "B" row?

[redacted]
A. "B" row.

Hamilton
Q. Right.

[redacted]
A. Okay, right above the shower, the row right there is Denver row.

Hamilton
Q. Okay.

[redacted]
A. So it's like Charlie row, you go up.

Hamilton
Q. And [redacted] was where?

[redacted]
A. He was in Denver row.

Hamilton
Q. On the row or in the shower?

[redacted]
A. He was on, on the row.

Hamilton
Q. How far, do you know where he's at?

[redacted]
A. Naw, I don't know.

Hamilton
Q. Okay. Do you remember him by the gate or was he close to the gate or towards his cell or where?

[redacted]
A. Last time I, he was standing right by the stairs, last time I seen him.

Hamilton
Q. Okay. Where was he when this incident occurred?

[redacted]
A. Right there.

Hamilton
Q. In Denver row?

[redacted]
A. Right.

Hamilton
Q. Okay. How about [redacted]

[redacted]
A. He was on the telephone.

Hamilton
Q. Okay, and he's just a simple inmate in there, correct?

[redacted]
A. Right, he's a early, he's a early trusty.

Hamilton
Q. But he's no longer, he was no, he wasn't a trusty that night, correct?

[redacted]
A. No, he wasn't, that's not his shift.

Hamilton
Q. Oh, he works PM's or day shift?

[redacted]
A. He works day shift.

Hamilton
Q. And he's housed there, correct?

[redacted]
A. Right.

Hamilton
Q. Okay. And where was he when this incident occurred?

[redacted]
A. On the telephone.

Hamilton
Q. Okay, where, which is where?

[redacted]
A. Right in front, right when you, when you come through the door.

Hamilton
Q. To the right or left?

[redacted]
A. The right.

Hamilton
Q. Okay. And then you saw him as soon as this incident occurred, he...

[redacted]
A. ...He ran out the door.

Hamilton
Q. Why?

[redacted]
A. Probably knowing him, he probably ran to the booth saying an officer is getting beat up.

Hamilton
Q. Okay, he's a pretty good trusty, or was, no?

[redacted]
A. No.

Hamilton
Q. Why is that?

[redacted]
A. ...No, you know, certain people there, certain people around there got a, a reputations, let me put it to you that way.

Hamilton
Q. Does he have a good reputation or a bad one?

[redacted]
A. With the officers it's good, inmates it's not.

Hamilton
Q. Oh, okay. Anybody else that was in there that could possibly give us information?

[redacted]
A. I just stated there was a white dude that was in the shower.

Hamilton
Q. Okay. Who was that?

[redacted]
A. I'm not sure what his name is. Him and his brother were there, I can't remember their names.

Hamilton
Q. His brother?

[redacted]
A. Why yeah, there's two of them, him and his brother, his brother was on Denver row, he was on Baker row...

Hamilton
Q. ...Oh, okay...

[redacted]
A. ...That's why I remember this guy real good, 'cause every time you talk shit he says, "I'll go get my brother." That's why I know him.

Hamilton
Q. Okay, so you never, let me just make sure we recap this real quick so we can get this done. Basically, you were standing out there in the sally port area when you noticed that the deputy confronted this inmate off of Bravo row, he had him come out of the gate...

[redacted]
A. ...Uh-huh...

Hamilton
Q. ...In the sally port area, walked him, did he walk him in front of Abel row, correct?

[redacted]
A. Right.

Hamilton
Q. That, the wall that's just across from the gate.

[redacted]
A. Right.

Hamilton
Q. The deputy pushed him in the back...

[redacted]
A. ...Yeah, tried leaning on, like they jack people...

Hamilton
Q. ...And the guy turned around on the deputy, and grabbed the deputy or choked him?

[redacted]
A. Just grabbed him.

Hamilton
Q. Grabbed him, around where?

[redacted]
A. His, like his shirt.

Hamilton
Q. Like this?

[redacted]
A. Yeah, and tried, try wrestling around with him...

Hamilton
Q. ...Okay, he grabbed the front of his shirt and then basically they wrestled. The inmate picks up the deputy, throw him to the ground. Did the inmate go to the ground with him?

[redacted]
A. Yeah, they both went.

Hamilton
Q. ...They both went...

[redacted]
A. ...Yeah, he like, just threw him, like, you know...

Hamilton
Q. ...Went down.

[redacted]
A. Like you pick somebody up and just throw them down.

Hamilton
Q. So they both fell to the ground?

[redacted]
A. Right.

Hamilton
Q. And they wrestled until they went in front of Bravo row, correct?

[redacted]
A. Right.

Hamilton
Q. At that point, you saw Sloan, Deputy Sloan...

[redacted]
A. ...Run to call the officers (inaudible)...

Hamilton
Q. ...The phone?

[redacted]
A. The phone.

Hamilton
Q. And then 15 seconds later or so three deputies came in, [redacted] [redacted]...

[redacted]
A. ...[redacted]...

Hamilton
Q. ...And some unknown deputy.

[redacted]
A. Right.

Hamilton
Q. They went over there to assist Kluth.

[redacted]
A. Right.

Hamilton
Q. [redacted] grabbed the guy by his groin, he didn't punch him or anything, he just grabbed his groin area, from behind...

[redacted]
A. ...From behind.

Hamilton
Q. [redacted] was in the middle of this person's body trying to pull him...

[redacted]
A. ...Yes...

Hamilton
Q. ...Away from Kluth and the other guy bent down with one knee on this inmate's...

[redacted]
A. ...Side back, side of the neck.

Hamilton
Q. Right. While the inmate was laying on his right side.

[redacted]
A. Right.

Hamilton
Q. Okay, Kluth managed to get away from this guy, gets up to his knees...

[redacted]
A. ...And starts swinging...

Hamilton
Q. ...Starts swinging and hitting this guy in the upper body of the torso area, as well as his face.

[redacted]
A. Right.

Hamilton
Q. Did you see that clearly?

[redacted]
A. Clearly.

Hamilton
Q. Okay. And then four additional deputies, three or four additional deputies responded to the module, one...

[redacted]
A. ...No, about five or six...

Hamilton
Q. Okay. Five or six. Responded, told you to, one deputy was tall male white, correct?

[redacted]
A. With a flat top.

Hamilton
Q. With a flat top. Did he have a moustache or glasses or anything?

[redacted]
A. I think he had glasses, now that you say that.

Hamilton
Q. Okay.

[redacted]
A. I'm not sure about a moustache, but I think he has glasses.

Hamilton
Q. How tall was he?

[redacted]
A. About six-one, six-two.

Hamilton
Q. How much did he weigh?

[redacted]
A. About one, 190, a little size on him.

Hamilton
Q. Yeah, okay. Could you identify him again?

[redacted]
A. If I see him, maybe.

Hamilton
Q. Okay. So he tells you to go to the day room so when...

[redacted]
A. ...Right, go upstairs to the day room.

Bell
Q. Charlie row?

[redacted]
A. Charlie row day room.

Hamilton
Q. Okay. At which time you did, and you heard the inmate screaming for a little bit...

[redacted]
A. ...And then...

Hamilton
Q. ...And then it stopped.

[redacted]
A. Right.

Hamilton
Q. You, and then that was it, basically, as far as what you saw or heard. Inmate didn't appear to be screaming that much, he

screamed for a few moments...

[redacted]
A. ...Uh-huh...

Hamilton
Q. ...And then stopped.

[redacted]
A. Right.

Bell
Q. How long did the screaming go on?

[redacted]
A. Just for, not that long, a couple seconds, 15, ten seconds.

Bell
Q. 15 seconds?

[redacted]
A. Ten seconds maybe, tops.

Bell
Q. Ten, 15?

[redacted]
A. Yeah, tops.

Bell
Q. Ten tops.

[redacted]
A. About ten tops.

Hamilton
Q. And then you said later on that a deputy came up to you and asked you if you saw anything?

[redacted]
A. Well, he had called me out of the day room.

Hamilton
Q. Okay, which deputy was that?

[redacted]
A. The tall one, the same one...

Hamilton
Q. The same guy?

[redacted]
A. Right.

Hamilton
Q. The same guy, the tall guy?

[redacted]
A. Yeah, so he called me back over there and he just asked me, 'What did you see?" I said, "I was in the day room." He says, "Good, that's what you want." That's what I want to say, so.

Hamilton
Q. And you never saw a sergeant, or did you see one?

[redacted]
A. They were all gone when they called me back out.

Hamilton
Q. Okay, so did you ever see them though from a distance?

[redacted]
A. No.

Hamilton
Q. Did you look through the bars and see if there's a sergeant?

[redacted]
A. There was a sergeant there, but I don't know who it was.

Hamilton
Q. Okay, a senior, did you ever talk to them?

[redacted]
A. No.

Bell
Q. When did the sergeant get there?

[redacted]
A. I can't tell you exactly when he got there.

Bell
Q. So you weren't out front...

[redacted]
A. 'Cause I...

Bell
Q. ...to see when he arrived?

[redacted]
A. No.

Bell
Q. He arrived sometime during the time that you were in the day room?

[redacted]
A. Yeah. 'Cause I knew, 'cause he was there, because that's when, 'cause I heard them talking about it with the nurse when she was talking to the nurse.

Hamilton
Q. You heard them talking about it?

[redacted]
A. No, the nurse was taking him out.

Hamilton
Q. You heard the nurse talking to whom?

[redacted]
A. To, I guess, the sergeant, sergeant or senior. I'm not sure who it was.

Hamilton
Q. What was he or she saying?

[redacted]
A. I heard one of the officers tell her, "Well, what should we do?" and stuff like that. At first, at first that's what they were talking about, "What should we do?" So, you know it was more or less, taking him up there and, basically.

Hamilton
Q. Okay. Did you have a chance to talk to the, talk to [redacted] and [redacted] after this incident and you guys haven't seen each other since the incident?

[redacted]
A. No. I, just [redacted] right now, 'cause I just seen him in the hole.

Hamilton
Q. Did you talk to [redacted] and them when all...

[redacted]
A. ...No...

Hamilton
Q. ...When everything was done...

[redacted]
A. ...No...

Hamilton
Q. ...They kept you guys separate?

[redacted]
A. No, absolutely, you got to understand one thing. As far as me and [redacted] and [redacted] let me put it to you this way, I have personal problems with both of them, so...

Hamilton
Q. ...Okay...

[redacted]
A. ...I, I don't have conversation, so when that stuff happened, [redacted] got rolled up the next day to the hole.

Hamilton
Q. Right.

[redacted]
A. Okay? [redacted] gots a reputation so I don't rap to him.

Hamilton
Q. Okay.

[redacted]
A. Okay? But for next time, 'cause like right now you told me to come in here and he goes, he goes, "Hey, I know they sent you to the hole because I (inaudible), and I said, they ain't going to do that. And he goes, well, you know, they're doing that, what are they going to do for you, that's your business. 'Cause he's in the hole and all this stuff and like I told him, I said, he's saying, "If you said this, I'm not going to say that I'm just going to tell them what happened, man, you know? 'Cause, see, I'm not even worried about this incident right here, I'm not really worried about it. I'm worried about that other incident, as far as I'm concerned.

Hamilton
Q. Homicide's taking care of that. Who is he talking to in Homicide?

[redacted]
A. I don't know, some Mexican guy.

Hamilton
Q. Okay. As a matter of fact I (inaudible) Okay.

[redacted]
A. Last name start with a "B" or something, or? [redacted]...

Hamilton
Q. Yeah. Okay, anything else? Anybody else that could have seen it or that you heard that saw it?

[redacted]
A. No. Nobody.

Hamilton
Q. Did you hear what happened to the inmate? Have you heard rumors about what happened?

[redacted]
A. Oh, yeah. I heard it the next day when I went up to the 9000 floor to get blankets. (Inaudible)...

Bell
Q. What happened?

[redacted]
A. ...I walked up there and they give, usually every night they give me a pass, I go up to 9000 to get blankets. So when I walked up there, there was about three deputies standing right there and they looked at me and they say, "You from 44?" And I say, "Yeah," and then he goes, "Oh," he goes, "you were the one working last night?" And I said, "Yeah," and then they start laughing and says, "Yeah, they crushed his nuts," and blah, all this other stuff. So, I know, so that's when I heard how hurt the guy...

Hamilton
Q. ...That's just rumors at this point.

[redacted]
A. Yeah, well, they ruptured him, or whatever it is, they were talking about it.

Hamilton
Q. Who said that?

[redacted]
A. The deputies.

Hamilton
Q. Which deputies?

[redacted]
A. The ones that worked 4000 that night. I don't even know those officers by name.

Hamilton
Q. Okay. You said that you went up to 9000...

[redacted]
A. ...9000...

Hamilton
Q. ...To get some blankets and you were talking to the deputies...

[redacted]
A. ...No. They asked me...

Hamilton
Q. ...Up on 9000, right?

[redacted]
A. ...No, I would not have talked until they asked me a question.

Hamilton
Q. Right, you were talking to them.

[redacted]
A. Right.

Hamilton
Q. They asked you a question, you were talking to them, right?

[redacted]
A. Right.

Hamilton
Q. That's what I meant.

[redacted]
A. Oh (laugh).

Hamilton
Q. To say, and, and that they were inquiring if you were the trusty, correct?

[redacted]
A. Right.

Hamilton
Q. And then they made the comment that they crushed the guy's

balls or something...

[redacted]
A. ...Right...

Hamilton
Q. ...Or testicles, right?

[redacted]
A. Right.

Hamilton
Q. What deputy said that?

[redacted]
A. It was the one with the, white dude with dark hair with a black moustache. Oh, dark moustache, but he was light skinned, white.

Hamilton
Q. Okay. Was he there, did you see him at the incident?

[redacted]
A. I can't say that, I don't know.

Hamilton
Q. Okay. Did he, okay.

[redacted]
A. They were just laughing.

Hamilton
Q. I'm curious how you knew that or how you come up to that conclusion.

[redacted]
A. They were just laughing about it, you know, it's like a big joke.

Hamilton
Q. Okay. Could you identify him if you saw him?

[redacted]
A. Oh, yeah.

Hamilton
Q. And you said you had that conversation the following night, correct?

[redacted]
A. The following night.

Hamilton
Q. And on the 28th.

[redacted]
A. Yeah, okay, it was the 28th.

Hamilton
Q. What time was that at?

[redacted]
A. Well, it had to be after 12:30 because that's the time we have to go get bed rolls.

Hamilton
Q. Okay. Okay. Can you think of anything else? How about yourself? Okay, we're going to end this interview at 1735 hours.

END OF INTERVIEW

I/M [redacted]

I.A.B. INTERVIEW 10-31-94

WITNESS INTERVIEW

CASE NUMBER IAB 008383

Robert [redacted] Booking [redacted]

Nemeth:
Q. Okay. Today's date is October 31, 1994, time is 1518 hrs. I'm Sergeant John Nemeth from Internal Affairs, my partner Sergeant Cornell. We're here today talking to, at Central Jail, talking to Inmate [redacted] Booking # [redacted], [redacted], do you have a middle name?

[redacted]
A. No.

Nemeth:
Q. And what's your birthdate?

[redacted]
A. [redacted]. (okay)

Nemeth:
Q. And your home address?

[redacted]
A. [redacted].

Nemeth:
Q. Can you spell the street, please?

[redacted]
A. [redacted].

Nemeth:
Q. Is that Avenue or Street?

[redacted]
A. Avenue.

Nemeth:
Q. Any apartment number or anything?

[redacted]
A. No. (okay)

Nemeth:
Q. Phone number there.

[redacted]
A. It's [redacted]. (okay)

Nemeth:
Q. Today we're here talking, as I mentioned on tape, about an incident that happened on October 27, shortly after midnight. You, how long have you been in jail? (since) Here at Central Jail.

[redacted]
A. Since about the 15th of May.

Nemeth:
Q. 15th of May. So, for several months?

[redacted]
A. Right. (okay)

Nemeth:
Q. And were you or, where, what's your cell right now?

[redacted]
A. Charley 1.

Nemeth:
Q. Charley 1?

[redacted]
A. 4400.

Nemeth:
Q. Module?

[redacted]
A. 4400. (okay)

Nemeth:
Q. And is that the cell you had on October 27th, which was last Thursday?

[redacted]
A. Yes.

Nemeth:
Q. Four days ago?

[redacted]
A. Yeah. (okay)

Nemeth:
Q. And are you a trustee there?

[redacted]
A. Yes. (okay)

Nemeth:
Q. And were you working as, your trustees duties on Thursday morning, just after midnight about 1230 a.m. Thursday morning?

[redacted]
A. Yes. (okay)

Nemeth:
Q. And did something happen in the module that, that drew your attention?

[redacted]
A. Yes.

Nemeth:
Q. Can you tell me what that was? You can start from the very beginning of what, of whatever events you believe are connected, okay?

[redacted]
A. I was working and Deputy Kluth told me to come on here and close the, the state lines, those doors that . . .

Nemeth:
Q. Come over and do *what* now?

[redacted]
A. Pull the state lines, close the . . .

Nemeth:
Q. What does that mean?

[redacted]
A. Pull the guys that go to prison.

Nemeth:
Q. Right, and what are you doing to them?

[redacted]
A. Pull 'em and put 'em, put, take 'em out of the cells and hold the gate open they getting transferred.

Nemeth:
Q. Okay so you're doing that and he's opening gates and (right) letting, you're guiding people to the dayroom.

[redacted]
A. Right. (okay) Okay, then this one guy comes out and he's like look around so.

Nemeth:
Q. What does this guy look like?

[redacted]
A. It's a Black guy.

Nemeth:
Q. What cell did he come out of?

[redacted]
A. I don't know.

Nemeth:
Q. What row was it on?

[redacted]
A. Baker Row.

Nemeth:
Q. Baker Row?

[redacted]
A. Right.

Nemeth:
Q. Okay, go ahead. Was this guy suppose to come out, by the way? Did somebody come out that *was* suppose to come out?

[redacted]
A. Yes.

Nemeth:
Q. So one person came out that was suppose to and then, and then this Black guy came out of a cell in B Row and started just roaming around?

[redacted]
A. Right.

Nemeth:
Q. Okay, go, take it from there.

[redacted]
A. So what happens is he gets out and then Deputy Kluth goes, "Who's that?" I said, "I don't know," so he asked, told me to get his name, so I told, "What's his name?" And the guy took off. So I told Deputy Kluth to like announce it on the speaker for him to get back in his cell, so he says, "Alright," but instead of going in the cell he hides behind the wall right there. So Deputy Kluth is looking out the window, he's looking for him, he can't find him, says, "You see him?" I said, "No," so he sees him and he tells him to go back over there, so he starts to walk him out, what, what told him to come to the, the office. So what Kluth did, Kluth came this way and he took off running to the dayroom.

Nemeth:
Q. Did Deputy Kluth come out of the booth?

[redacted]
A. No. (okay)

Cornell:
Q. The Inmate went into the dayroom.

[redacted]
A. Into the dayroom. (okay) So they come back . . .

Nemeth:
Q. You saw the deputy walked along (okay) to look for him, is that what you . . . ?

[redacted]
A. Yeah, 'cause to patrol the hall like this. (right)

Nemeth:
Q. So he's still inside the security (right) area but he's just walking, looking.

[redacted]
A. But I told him to come to the gates, (right) since we're suppose to meet there. (okay) So after he goes in the dayroom, so as Deputy Kluth comes and opens, pops the door and he asked me, "Where is he at?" I said, "He went in the dayroom," said, "Go get him," went down there, I said, "Want you, man," he tells me . . .

Nemeth:
Q. Was the dayroom opened, the gate was opened?

[redacted]
A. Yeah, 'cause I, I was putting everybody in there for transfers. So, so I go over and tell him and he said, "All right," so he started taking back down towards the cell so Deputy Kluth walks back this way and then he takes off and hides again. Then this officer down, Deputy, I guess it was Sloan I guess his name was, he comes in, Deputy Kluth comes out, he opens the gate and says, "Come here," (uh-huh) so, so he goes like, you just walks the back.

Nemeth:
Q. This, who's, who's he now?

[redacted]
A. The, the (the Black guy?) Black guy. Yeah.

Cornell:
Q. Do you know his name?

[redacted]
A. No.

Nemeth:
Q. It's a Black inmate?

[redacted]
A. Yeah. (okay) So he starts walking this way, right, I was standing right there and he tells me . . .

Nemeth:
Q. Standing where?

[redacted]
A. Right, right by the main control, the box, the front door, by . . .

Cornell:
Q. Are you upstairs or downstairs?

[redacted]
A. Up–, I was walking . . .

Nemeth:
Q. Near the sallyport area?

[redacted]
A. Yeah, the sallyport.

Nemeth:
Q. Alright, what, what main door are you talking about?

[redacted]
A. The one that the o–, officers go to the office. (okay)

Nemeth:
Q. By the, by the . . .

Cornell:
Q. Front booth door.

Nemeth:
Q. . . . Module Officer's booth door, is that right?

[redacted]
A. Right. (okay) So, starts, time to come out so he got, he comes out and he goes, jacks him on the wall, so I take him out.

Nemeth:
Q. *Who* jacks him on the wall?

[redacted]
A. Kluth. (okay)

Nemeth:
Q. And is there another deputy in the booth, the Module Booth now?

[redacted]
A. Yeah.

Nemeth:
Q. And that's *who*?

[redacted]
A. I think his name was Sloan.

Nemeth:
Q. What does he look like?

[redacted]
A. White guy, he's pretty, pretty stocky.

Nemeth:
Q. What color hair?

[redacted]
A. Blond.

Nemeth:
Q. Blond hair?

[redacted]
A. Right. (okay)

Cornell:
Q. How does he comb it?

[redacted]
A. Huh?

Cornell:
Q. How does he comb his hair?

Nemeth:
Q. How does he wear his hair?

[redacted]
A. He is like a residing, I think, I'm not sure. (okay) So, so when he (inaudible) that so, you know, the whole time somebody jack us in there and I take off, so I go up the stairs.

Nemeth:
Q. Why do you take off?

[redacted]
A. 'Cause I don't like getting involved in any of that stuff.

Nemeth:
Q. Okay, go ahead.

[redacted]
A. So I go up the stairs and I see, when it goes like that I saw the Black guy grab the recruit, and they started wre– . . . (okay)

Cornell:
Q. Where are they standing when they do all this?

[redacted]
A. Right there by the phone across the Baker Row . . .

(end Tape 1, Side A–start Tape 2, Side B)

Nemeth:
Q. Okay. Continuing with the interview of Mr. [redacted] at Central Jail, time's 1524 hrs. Go ahead, you were saying that you saw the deputy and the Black inmate and that was deputy, what did you say his name was, again?

[redacted]
A. Kluth.

Nemeth:
Q. Kluth, and they were standing by the "A-C" Row, Row gate, is that right?

[redacted]
A. Yes. (okay)

Nemeth:
Q. What happened then?

[redacted]
A. Well I just, I just felt I was going back up to the dayroom. (okay)

Nemeth:
Q. You say he started to jack him, what, what actions occurred when, when that happened?

[redacted]
A. Well, you know, he just tried to get his (inaudible) put your hands over the wall (okay) and start searching him. (okay)

Nemeth:
Q. Did he put or did he direct the Black inmate to get on the wall?

[redacted]
A. He just started to get onto into the wall. (okay)

Nemeth:
Q. Which wall would that be then?

[redacted]
A. The wall right across from A and C row gates. (okay)

Nemeth:
Q. That fine, perpendicular to where the showers are, is that right?

[redacted]
A. Yeah, right next to the showers.

Nemeth:
Q. Right next to the shower (right), okay, and did the inmate do that?

[redacted]
A. No, well see that's what I say, I went, when I saw I went, when he, when he (inaudible) took off and went to the other gate, I mean, tried to run, went towards the dayroom (alright) by then.

Nemeth:
Q. What position did you leave them at?

[redacted]
A. They were just having him against the wall. (okay)

Nemeth:
Q. Which, what direction was the Black inmate facing? The wall or the deputy or what?

[redacted]
A. He was facing the deputy, he was facing this way.

Nemeth:
Q. Okay so he was still (yeah) facing the deputy.

[redacted]
A. The deputy was right here and the guy was coming out of Baker Row, going this way. (okay) Okay so what happens is the Black guy he grabbed Deputy Kluth toward the "B" row shower. So then he, he ran like that and then some other deputies came in and then, and when they came in he started running towards me but I pointed toward the other way 'cause he was, by that time, they were wrestling around and they were over here by the showers, on the other side. (okay)

Nemeth:
Q. How did the other deputies know to come in?

[redacted]
A. I guess Deputy Sloan called.

Nemeth:
Q. Did anybody go out the back?

[redacted]
A. Well there was a, a Black guy that was on the phone and then (uh-huh) one of the (inaudible).

Nemeth:
Q. It was a trustee, right?

[redacted]
A. Uh-huh, a daytime trustee, (uh-huh) he was on the phone.

Nemeth:
Q. 4400 daytime trustee, (right) he was using the phone near 4400 entrance area, and what did he do?

[redacted]
A. I don't know, he disappeared.

Nemeth:
Q. He disappeared? (well) This was before the deputies came or after the deputies came?

[redacted]
A. That's when the stuff started, I didn't see it when, when, when they wrestling around I went back and he was, the guy that was on the phone he took off so I don't know. (okay)

Nemeth:
Q. Was the gate to the module opened then so you could just walk out of there? It wasn't locked to the main door, to the front door?

[redacted]
A. To the main door (inaudible).

Nemeth:
Q. Front door was open.

[redacted]
A. Right. (okay)

Nemeth:
Q. And so you saw Deputy Kluth and the inmate, you saw the inmate grab Deputy Kluth?

[redacted]
A. Right.

Nemeth:
Q. Did the inmate punch Deputy Kluth?

[redacted]
A. He like, I, I gotta say, I have to say punch like this, more was like try to body slam.

Nemeth:
Q. Tried to body slam, (right) grabbed on to him?

[redacted]
A. Right.

Cornell:
Q. How did he grab him?

[redacted]
A. Like grabbed him, you know, around his shoulders and stuff and they're like wrestling like this.

Cornell:
Q. And then, and how were they positioned?

Nemeth:
Q. Face to face, or one back to?

[redacted]
A. Well, they were face to face, at first but then turned.

Cornell:
Q. Initially when, initially when, when the inmate grabbed Deputy Kluth, how were they positioned?

[redacted]
A. Well he's just like, he came this way and he just grabbed hold of him so they're like face to face sort of.

Nemeth:
Q. Did the inmate get on the wall?

[redacted]
A. No.

Nemeth:
Q. He never got on the wall?

[redacted]
A. I, I didn't see that part, that's what I'm saying, like I only saw his, when he talking to me, when, when, when he came up I took off upstairs, (uh-huh) then I started hearing the, the wrestling around.

Nemeth:
Q. Oh, okay, so you missed some of it, is that right?

[redacted]
A. Right.

Nemeth:
Q. Where did you go when you took off?

[redacted]
A. I was at Charley, Charley's dayroom.

Nemeth:
Q. Charley room dayroom?

[redacted]
A. Right, that's where we gotta stay at.

Nemeth:
Q. Okay, and then what happened? Then you heard some scuffle, is that right?

[redacted]
A. Yes.

Cornell:
Q. When you turned, when you turned around and looked back, what was going on?

[redacted]
A. They were wrestling around. (okay)

Cornell:
Q. And who had over whom?

[redacted]
A. The, the Black guy had Mr. Kluth.

Cornell:
Q. And how?

[redacted]
A. Like grabbed him right around his shoulders and stuff. (okay)

Cornell:
Q. What you're showing me is you're putting both your arms, 'cause you need to describe (oh, alright) for the tape 'cause I can't see that.

[redacted]
A. Like, put both arms around to grab his shoulders.

Cornell:
Q. And they were face to face?

[redacted]
A. Yeah, that's the way they rolling.

Nemeth:
Q. Were deputies over them?

Cornell:
Q. Was Kluth's back to him?

[redacted]
A. No, it looked like they were face to face.

Nemeth:
Q. Was Kluth's arms inside of his grasp or were they outside, do you know? Do you know what Deputy Kluth was doing with his hands? Was he punching him or was he trying to fight him off, or?

[redacted]
A. Well he looked like he was trying to push him off.

Nemeth:
Q. Push him off?

[redacted]
A. Yeah. (okay)

Nemeth:
Q. And then what did you see next?

[redacted]
A. All I saw was that they started, they started going the other way and then that's what I say.

Nemeth:
Q. They started going toward the shower?

[redacted]
A. The shower, toward the shower in Denver Row.

Nemeth:
Q. The other shower. B, in B Row?

[redacted]
A. Right.

Nemeth:
Q. That side of the module?

[redacted]
A. Right. (okay)

Nemeth:
Q. And then what happened?

[redacted]
A. Okay, and that's when the deputies ran in, they started running towards me, I was, I was up there by the dayroom, they started running that way then I pointed to the other side. And that's when they told me to take my things out. (okay)

Nemeth:
Q. Was your C Row gate closed and everything?

[redacted]
A. Yeah, it was closed then.

Nemeth:
Q. But they were heading toward you 'cause they saw you standing out on the tier, is that right?

[redacted]
A. Yeah. (okay)

Nemeth:
Q. And, what did you hear or see next?

[redacted]
A. I, I was in the dayroom. (okay)

Nemeth:
Q. What did you hear next?

[redacted]
A. Just, just the two of them wrestling.

Cornell:
Q. What did it sound like?

[redacted]
A. Like a fight.

Cornell:
Q. I mean, anything specific that you can tell me, I mean, what does a fight sound like?

[redacted]
A. Just punches.

Nemeth:
Q. Was anybody talking, any voices? Was anybody saying anything?

Cornell:
Q. Did they like say anything?

[redacted]
A. No.

Cornell:
Q. Nobody was saying anything that you can remember?

[redacted]
A. No.

Cornell:
Q. You're sure?

[redacted]
A. All I heard was deputy told, I heard Deputy Kluth say, telling to get him off of him.

Cornell:
Q. Said, he said what?

[redacted]
A. To get him off of him.

Nemeth:
Q. He was telling another, Kluth was telling the other deputies, "Get the inmate off of me!"

[redacted]
A. Right. (okay)

Nemeth:
Q. Anything else?

[redacted]
A. No, that's about it.

Nemeth:
Q. Did you hear anybody crying out for help?

[redacted]
A. I, (pardon me) I heard the guy telling him to get off of him and then next thing I know . . .

Nemeth:
Q. Who's the guy, the Black inmate?

[redacted]
A. Yeah.

Nemeth:
Q. He told the deputies to get off of him?

[redacted]
A. Yeah. And they, (what else) they were cussing and stuff, you know.

Nemeth:
Q. What kind of cussing?

[redacted]
A. Like, "Fuck you, mother fuckers!" And all that other shit.

Nemeth:
Q. Who was saying that?

[redacted]
A. The Black dude.

Nemeth:
Q. He was saying that to the deputies?

[redacted]
A. Right.

Nemeth:
Q. Did you hear deputies saying anything?

[redacted]
A. No, not really.

Nemeth:
Q. Did you hear them saying, "Give up!" or, "Put your arms behind your back!" or anything like that?

[redacted]
A. No.

Nemeth:
Q. No, okay. And what happened next then?

[redacted]
A. And they said, "No", I was up in the, they told me, they put him in the, I was, I was in the dayroom upstairs, I locked in there and then after that I was, they came, they told me to come out, that was it, and they said, they said that they were gonna take an interview of some type, what I seen, that's it.

Cornell:
Q. Then they get your name and your booking number?

[redacted]
A. Yeah.

Cornell:
Q. Who did that?

[redacted]
A. One of the other deputies.

Nemeth:
Q. Was it a Sergeant? A guy with stripes?

[redacted]
A. I can't remember. (okay)

Nemeth:
Q. And after you were unlocked you were allowed out to the leave, allowed to leave from the locked dayroom, what, was the inmate still there?

[redacted]
A. No, they, they were gone.

Nemeth:
Q. He was gone, okay. And did somebody asked you, "Did you see something?"

[redacted]
A. They just said, they asked me, "What did you see?" I said, "I didn't see nothin'."

Nemeth:
Q. You said you didn't see anything?

[redacted]
A. Uh-huh.

Nemeth:
Q. You didn't tell them you saw something when they copied your name?

[redacted]
A. No.

Nemeth:
Q. No, told them you didn't see anything.

[redacted]
A. Just I was in the dayroom, that's all (okay) I said.

Nemeth:
Q. Alright, why did you say that?

[redacted]
A. Because I'm in County Jail then and.

Nemeth:
Q. You're worried about retaliations?

[redacted]
A. That's right.

Nemeth:
Q. Has, has anybody been retaliated on, that you're aware of, for this incident?

[redacted]
A. Nah-huh, (okay) but I didn't wanna take a chance. (yeah)

Nemeth:
Q. We're gonna tape this, [redacted] we are interested in getting the truth, okay? (I know) I don't want you to say something that didn't happen because you think it's gonna make me happy but on the other hand I don't want you to *not* say something because you're afraid of retaliation. I'm here to tell you that I have the full force and impact of the Sheriff's Department behind me to protect you, okay? The Sheriff's Department is *very* interested and very concerned about making sure that incidents where force is used and used incorrectly, okay, and used to an excess is reported. On the same token we're also concerned that if force is used and it's used appropriately and it was necessary that it be used then we get that established, okay? In other words, we don't like to have people saying we beat 'em up, used too much force if we didn't, on the other hand, we don't like to have our people telling us they didn't use too much for if they did. The purpose of our investigation here is to find out what really, you know, what exactly happened. Now, if you're concerned about your safety and *that's* why you're not saying everything, then I have the duty to tell you right now that nothing's gonna happen to you, I'll give you my business card, you're not the first person we've talked to, we've talked to many other people. I need you to be *absolutely* truthful with me about what you saw, you follow me?

[redacted]
A. Uh-huh. (okay)

Nemeth:
Q. Now, I'm gonna give you a business card so you can call me anytime, okay? (uh-huh) And also talk to any Watch Commander anytime that somebody approaches you about our interview today and asks you, "What did you say?" Or tries to punish you in anyway for saying anything or, or for *any* reason that you find unusual, you let me know, okay? If you feel it's connected to this. Now, I'm not talking about if you do something wrong and you receive some kind, you know what I'm talking about. (yes, Sir) Now, I don't know how, how else to convince you but nothing's going to happen to you, okay? (uh-huh) We have a lot more power than, than a, than a guy working the jail module, okay? Or, or any of his buddies, okay? Now I want you to tell me the truth, alright? Okay.

[redacted]
A. Well could I, like I say to this first, I'm looking at 25 to life, I got, you know, and truthfully I could tell you right now that, that if I'm gonna, you know, the cops here are really part (inaudible), you know what I'm saying?

Nemeth:
Q. Uh-hub.

[redacted]
A. If I walked in front of the cop over there to talk to him (inaudible) (right, right) okay, but, but as far as what happened, you know, there's a lot of things, let's see, what I, what I, what I heard was they were wrestling, I was standing by the stairs, and they were fight–, I heard Mr. Kluth tell him to get off of him, the deputies rushed in and they came, they're running towards me, they're right in front of me and then I heard the Black dude say, "Alright, that's it, I give up!"

Nemeth:
Q. You heard him say that?

[redacted]
A. Yeah.

Nemeth:
Q. And then what happened?

[redacted]
A. Then I heard a bunch of kicking and punching and stuff.

Nemeth:
Q. Did you see anybody kicking?

[redacted]
A. No, I didn't see, I couldn't see right there. (okay)

Nemeth:
Q. But what did you, how, just, I'm not, don't get defensive of me but I'm just asking you, describe to me what kicking sounds like to you.

[redacted]
A. Like something, something hitting, like something, hearing something [sound of a fist on a hand] and the guy going, "Uh!" (okay)

Nemeth:
Q. I, you know, again don't get defensive, I'm just trying to draw the site, why do you think that was kicking and not punching? I mean, if you could articulate that.

[redacted]
A. Well, I know it was kicking because the other guys that saw 'em in the other side told me (inaudible).

Nemeth:
Q. And who is the other guys in the other side that told you?

[redacted]
A. White guy that was in the shower and [redacted] the volunteer. (okay)

Nemeth:
Q. That's what they told you, that's why you believe it was kicking (well they said) 'cause you heard some *sounds* (yeah) and those sounds you heard, combined with what you heard from talking to [redacted] who is a, a, a big trustee, big White guy in red hair (yeah) and, and a White guy that was locked in the shower and they told you that there was kicking so that, those statements, combined with what you heard, you believe it was kicking?

[redacted]
A. Right.

Nemeth:
Q. Did you ever see any kicking at all?

[redacted]
A. I didn't see any of it.

Nemeth:
Q. Why not?

[redacted]
A. Because, okay, when, when they went in, when they, okay, when I was standing by the door they went in, they were coming down to, turning towards me, I pointed the other way and then that, by that time Deputy Kluth was on the ground and they all jumped on the guy, right over him.

Nemeth:
Q. And you didn't see 'em kicking at that point?

[redacted]
A. No, because there was only three of them there, (uh-huh) and I, I went inside and I closed the door (inaudible) and then, that's when I saw the other officers come in.

Nemeth:
Q. How many officers, alright, initially you said they, the two of 'em, did you say that you saw 'em fall to the ground?

[redacted]
A. No, I just seen the glass up, that's when I saw it was like the Black guy body slam.

Nemeth:
Q. So you did see, you, you think the Black inmate thought he slammed the White guy, did the White guy remain standing afterwards, (no) they both went down, or?

[redacted]
A. They both go back down and he landed on top of him.

Nemeth:
Q. The Black guy landed on top of him?

[redacted]
A. Deputy Kluth.

Nemeth:
Q. But they both went down together or did he pulled him down and then jumped on top of him?

[redacted]
A. He like body slam on top of him. (okay)

Nemeth:
Q. I guess what I'm asking is, did they go as like a unit (yeah) where they're holding on to each and fall down?

[redacted]
A. That's the way they fell down.

Nemeth:
Q. They fell down together?

[redacted]
A. Deputy Kluth hit the flo–, floor first, the other guy was on top of him.

Nemeth:
Q. Could depu–, so you're saying it was like a top/bottom situation?

[redacted]
A. Right. (okay)

Nemeth:
Q. And the inmate being on top?

[redacted]
A. Right.

Nemeth:
Q. Was that right?

[redacted]
A. Yes.

Cornell:
Q. And you actually saw that yourself?

[redacted]
A. Yeah.

Nemeth:
Q. Are you sure just, I mean, don't, don't try to create things 'cause you think it's making us happy, (no) just tell us what *you* exactly saw yourself.

[redacted]
A. The way it look like, the way it look like, it look like Deputy Kluth was like, Deputy Kluth was saying like, "Help me!"

Nemeth:
Q. So you lo–, you think Kluth was losing the fight, (oh, he definitely) the way you saw it?

[redacted]
A. Definitely was losing the fight.

Cornell:
Q. And he was definitely on the bottom?

[redacted]
A. Definitely.

Nemeth:
Q. Okay, what happened next?

[redacted]
A. That's when the other three deputies ran in. (okay)

Nemeth:
Q. Let me ask you this, was, did you ever see, at that point, the Black guy bleeding?

[redacted]
A. No.

Nemeth:
Q. No. He, in fact to *you* it looked like the Black guy was winning the fight, is that what you were saying?

[redacted]
A. Right.

Nemeth:
Q. Was deputy, did you see the Black guy punching at Deputy Kluth?

[redacted]
A. I didn't see it. (okay)

Nemeth:
Q. That's fine. (I didn't see it) Did you see Deputy Kluth punching at the Black guy?

[redacted]
A. No.

Nemeth:
Q. It was more of a wrestling contest, is that right?

[redacted]
A. Right. (okay)

Nemeth:
Q. Alright, now, how much time, if you can estimate, goes on between *that* point, where they both fall to the ground, and when the first help gets there?

[redacted]
A. About 30 seconds, (30 seconds) (inaudible). (okay)

Nemeth:
Q. And how many deputies arrived in that first wave?

[redacted]
A. I think, I think it was about three.

Nemeth:
Q. About three? (yeah) Or was it more than three?

[redacted]
A. No, the first time, when they first came in, when they came up, well first was I there, they went toward me and I pointed the other way. When they went the other way, I locked myself in and two more came in.

Nemeth:
Q. And two more came in. So you were just walking in to see, well, pulling the gate close behind him, (that's it) is that right?

[redacted]
A. Yeah. (okay)

Nemeth:
Q. You, you didn't want no part of being out there when that frenzy was gonna go off.

[redacted]
A. Right.

Nemeth:
Q. You saw one, he looked at you, you pointed at Kluth and the deputy and what was their position at that point?

[redacted]
A. They were getting like, (inaudible) he was coming, running towards me.

Nemeth:
Q. What was Kluth's and that Black inmate's position?

[redacted]
A. They were still on the ground at that time.

Nemeth:
Q. They were on the ground by the shower on B Row, is that right?

[redacted]
A. Yeah.

Cornell:
Q. How can, how did they run on toward you, where were you standing for them to be running?

[redacted]
A. By, by the C gate, the C gate.

Nemeth:
Q. He's standing just to the wall by the gate, per say.

[redacted]
A. Right cell, leaning on the sally.

Nemeth:
Q. He's still in the sallyport, you quickly open that gate and pulled in front of you.

[redacted]
A. (inaudible) I was going in then.

Cornell:
Q. Okay, so you just pointed?

[redacted]
A. Yeah, 'cause they was running towards me, 'cause I didn't wanna get beat up so. (okay)

Nemeth:
Q. So you were outside of the C gate and it was, it was popped opened, right? Holding, you know, wasn't all the way locked, so you saw this, you go like that and you open the gate, get in and boom, close it behind you, right? Is that, I'm I describing that correctly?

[redacted]
A. Well . . .

Cornell:
Q. And did you see any of the deputies that arrived use any force on the Black guy?

[redacted]
A. I just saw them all jump on him.

Nemeth:
Q. Did you see anybody kick him at that point?

[redacted]
A. No. (okay)

Nemeth:
Q. What did you see? They all jumped on him.

[redacted]
A. I just saw three of them jump on him and grab him, and.

Nemeth:
Q. Try to separate 'em, get him off of him?

[redacted]
A. Yeah. (now was that) In fact, that's when I went upstairs, that's . . .

Cornell:
Q. Were they hitting him or anything, or?

[redacted]
A. No.

Nemeth:
Q. Was the Black guy on top of Kluth at that point?

[redacted]
A. Yeah, well they, they, (they were trying to hobble him) all three of 'em were on top of them.

Nemeth:
Q. All three were on top of the Black guy.

[redacted]
A. Yeah.

Nemeth:
Q. And was the Black guy *still* on top, was Kluth at the bottom of the pile?

[redacted]
A. He was still like holding Kluth. (okay)

Nemeth:
Q. And then what did you see after that?

[redacted]
A. And then I went, then when I saw that then I started walking up the stairs and I saw a whole bunch of other deputies running.

Nemeth:
Q. How many is that?

[redacted]
A. Well, when they came out there was like I guess about ten of 'em.

Nemeth:
Q. Did you count 'em?

[redacted]
A. No, it was just . . .

Nemeth:
Q. You're estimating?

[redacted]
A. About ten.

Nemeth:
Q. About ten altogether.

[redacted]
A. Yeah. (alright)

Nemeth:
Q. So when did you come out to see ten deputies? We're, we're at the point when you, you see the first three get there and you point to the first one, then you lock yourself in C, or you go in your dayroom.

[redacted]
A. Right.

Nemeth:
Q. Is the dayroom gate closed or is it opened?

[redacted]
A. It was open. (okay)

Nemeth:
Q. So you go in the C Row dayroom?

[redacted]
A. Yeah.

Nemeth:
Q. Upstairs dayroom. And, and that's on the left hand side of the booth, okay, and now you hear some scuffles, is that right?

[redacted]
A. Right.

Nemeth:
Q. And then, when do you come out?

[redacted]
A. I heard the scuffling, I'm looking at the door.

Nemeth:
Q. You're looking out the, the dayroom door?

[redacted]
A. This time I run like that, I can't see nothing 'cause they're on the other side, (uh-huh) 'cause you can hear it, alright, but I seen deputies right there, then after it's all done, they're all standing like right there by the sallyport. I'm looking like that now and the nurse comes in and she just like, she gets at a phone booth, I seen her 'cause the phone's right there across from where the deputies, there's like.

Nemeth:
Q. The *pay* phone?

[redacted]
A. No, the phone, the office phone, she gets on the office phone.

Nemeth:
Q. Oh, uh-huh.

[redacted]
A. She calls and then . . .

Nemeth:
Q. She goes in the booth and uses that phone?

[redacted]
A. Uh-huh. And then, then I guess they take him out and it was about I, I guess 20 minutes they call me down, and one of the deputies tells me, asked me what I seen.

Nemeth:
Q. Who's, what deputy is this?

[redacted]
A. I don't know his name.

Nemeth:
Q. Somebody you don't know?

[redacted]
A. Right.

Nemeth:
Q. Did you read his name tag?

[redacted]
A. No. (okay)

Nemeth:
Q. So what happens?

[redacted]
A. He, he told me, he told me to clean up the mess.

Nemeth:
Q. What was the mess?

[redacted]
A. The blood.

Nemeth:
Q. Anything else?

[redacted]
A. That's it, the blood.

Cornell:
Q. Did you clean it up?

[redacted]
A. Yeah.

Cornell:
Q. With what?

[redacted]
A. With towels, they, they told me to put the blood, the, the towels in a plastic bag and take it to the elevator.

Cornell:
Q. Did you do that?

[redacted]
A. Yeah.

Cornell:
Q. Did, did anybody help you clean it up?

[redacted]
A. No.

Nemeth:
Q. You cleaned it by yourself?

[redacted]
A. Yeah.

Nemeth:
Q. The whole thing?

[redacted]
A. Yeah.

Cornell:
Q. No other trustee ever came to help you or anything, or?

[redacted]
A. No.

Cornell:
Q. You cleaned the whole area by yourself?

[redacted]
A. Yeah.

Nemeth:
Q. How many towels did you use?

[redacted]
A. It was just one, I used one towel and then he told me to mop and I moped it and then at 5 o'clock, I guess an hour later he came back and told me to clean the walls.

Cornell:
Q. Was, was there blood on the walls?

[redacted]
A. Yeah.

Nemeth:
Q. Which walls?

[redacted]
A. The one by the little, the storage room.

Nemeth:
Q. By the storage room?

[redacted]
A. Right.

Nemeth:
Q. Was that the same side where a pay phone is, that door?

[redacted]
A. No, it's right, it's right by the, right next to the, the shower.

Nemeth:
Q. Yeah, right. Now, if you walk in the module doors there's that pay phone, right?

[redacted]
A. Phone booth's right here and you gotta around the corner like this.

Nemeth:
Q. So right here there's a doorway?

[redacted]
A. There's a doorway here. (right)

Nemeth:
Q. And this is the wall?

[redacted]
A. (inaudible)

Nemeth:
Q. Huh?

[redacted]
A. Push Kluth against the wall, right below it.

Cornell:
Q. Wall, uh-huh, right below that.

Nemeth:
Q. Okay, so that's where the blood was.

Cornell:
Q. If you were walking straight up from Baker Row and came up the stairs and continued straight, you'd run right into that wall, wouldn't you?

[redacted]
A. Right. (okay)

Nemeth:
Q. Okay, and do you know if blood got in that room? (no) Did you see anything?

[redacted]
A. I didn't see any of that. (okay)

Nemeth:
Q. What happened to the Black inmate that had been on the phone that disappeared?

[redacted]
A. I don't know.

Nemeth:
Q. Did you ever see him again?

[redacted]
A. 'Cause he took off and I, and I, when he let me out . . .

Nemeth:
Q. We mean the Black trustee, the Black trustee.

[redacted]
A. When he came, when, when he let me out I didn't see him come back, so I don't know where he went.

Cornell:
Q. Do you know if he went out in the hallway or if he went back to the housing?

[redacted]
A. Yeah, he went, he definitely was in the hallway.

Cornell:
Q. Oh, he went out in the hallway.

[redacted]
A. He was in the hallway.

Nemeth:
Q. Did he tell the deputies there was something going on in there?

[redacted]
A. I don't know.

Nemeth:
Q. Well, what do you think?

[redacted]
A. Probably.

Nemeth:
Q. Did you hear that? Did somebody tell you that that's what happen?

[redacted]
A. 'Cause I know the guy.

Cornell:
Q. Have you talked to him since?

[redacted]
A. Yeah. That's, that's the point I'm trying to make, I know the guy.

Cornell:
Q. What's his name?

[redacted]
A. It's [redacted]

Cornell:
Q. [redacted]

Nemeth:
Q. When, when you say you know the guy, you mean you *know* how he is and he would do that, is that what you're saying?

[redacted]
A. Let me put it this way, if, if it came between us and them, us and you guys, he would tell on us.

Nemeth:
Q. So he's a cop then, like a snitch jacket type thing?

[redacted]
A. Yeah.

Cornell:
Q. Is he gonna protect the deputies or is he going to . . . ?

[redacted]
A. Lie. Like I say, see the thing with him is he doesn't, he works for an AM shift, he's suppose to work at 8, from 6 o'clock in the morning to 2 o'clock. (uh-huh) I go to work at 10 o'clock at night 'til 6 in the morning. (uh-huh) So then he was on the phone when I was on.

Cornell:
Q. Well, what I'm saying is I don't understand the, you think if we talk to him he's gonna protect the deputies *if* they did something wrong?

Nemeth:
Q. You think he would lie for the deputies if the deputies did something wrong?

[redacted]
A. If it was to his advantage.

Nemeth:
Q. He'd get something out of it, probably, huh? Think he'd tell the truth if he made no difference to him, there was no advantage either way?

[redacted]
A. I don't know, I doubt it, I couldn't say that.

Nemeth:
Q. Who knows, huh?

Cornell:
Q. His name is [redacted]

[redacted]
A. Right.

Nemeth:
Q. [redacted] or [redacted]?

[redacted]
A. [redacted]

Nemeth:
Q. [redacted]?

[redacted]
A. [redacted] (okay)

Nemeth:
Q. Does he stay in 44 also?

[redacted]
A. Yeah. He is no more trustee.

Nemeth:
Q. Huh?

[redacted]
A. He's, he's not a trustee no more.

Nemeth:
Q. But he's a regular guy living in 44. (right) Which house is he in?

[redacted]
A. He's on Denver Row somewhere.

Nemeth:
Q. Well, is he there now, do you know, or?

[redacted]
A. Yeah, he's there. (okay)

Cornell:
Q. Why did he get rolled up, do you know?

[redacted]
A. Because everybody went to a lock down and they, he went to the store for one of the (inaudible), he was passing out through the gate and the cop got him, (uh-huh) deputy.

Nemeth:
Q. Alright. Did you hear, tell me what you heard now in the dayroom, did you hear the Black inmate crying out for help or anything like that?

[redacted]
A. Not for real, I was just, you know it was like, well you gotta understand that the, the, the guy, he was, you know, I know the guy was (inaudible), he's like one of those loud mouths.

Nemeth:
Q. The Black, you mean, the inmate?

[redacted]
A. Uh-huh.

Nemeth:
Q. He's a loud mouth?

[redacted]
A. Yes, you know, quite a bit. So he's yelling and the person who's yelling when they first came in so I don't know, you know, he was only yelling for a few minutes and they stopped but, so I don't know, you know what's, like as far as all the punching and stuff I didn't, it was just what I heard, (uh-huh) so I didn't see nothing. It was like when the, when the deputies when they first came in. (uh-huh) And it was just all because he had to see everything was the guy in the shower and [redacted] they were the ones that were standing right there. (uh-huh) And I just caught the end, you know, to clean it up, that's all that happen. (okay)

Nemeth:
Q. Tim, you got anything?

Cornell:
Q. Anything else, [redacted] that we didn't ask you, any piece of information that you're sitting on that you don't wanna tell us?

[redacted]
A. (inaudible), nothing else.

Cornell:
Q. Nothing else?

[redacted]
A. No, that's it.

Cornell:
Q. Everything you tell us is the truth?

[redacted]
A. Yeah. It was just like the deputy told, you know, he asked me the answer, he said, "Did you see what happen, I wasn't here?" (okay)

Nemeth:
Q. Okay, but you *did* actually see somethings, the things you described to us are the things you saw.

[redacted]
A. Right, but I ain't gonna tell them anyway.

Nemeth:
Q. Why not?

[redacted]
A. Because.

Nemeth:
Q. You just don't wanna choke, right?

[redacted]
A. I'm in County Jail, (right) (inaudible).

Cornell:
Q. Kind of a nut here, huh?

[redacted]
A. That's right.

Nemeth:
Q. Yeah, okay, we understand that so just be, you know, you can be confident that this is the stage that remains confidential. Like I said, I gave you my card, if something comes up, somebody jams you on this, *anything* don't hesitate to call, okay?

[redacted]
A. Uh-huh.

Nemeth:
Q. There's something I wanna ask you and, and I don't wanna put it on my tape, so let me stop the tape for a second and take a break at 1546.

(tape paused)

Nemeth:
Q. Okay, we're back on tape, the time is 1550. Just a couple of questions, you mentioned about a White guy in a shower, do you know his name?

[redacted]
A. [redacted]

Nemeth:
Q. [redacted] The White guy.

[redacted]
A. Yeah.

Nemeth:
Q. And do you know how he came to be in the shower?

[redacted]
A. It was because he was goofing off, I guess so, it, it was either that he, he wasn't in the cell and he didn't have a bed and he wasn't (inaudible) or it was that when they were transferring him, he wouldn't go to the shower, into the dayroom for it.

Nemeth:
Q. Okay so, but for other reason he was put into the shower as some type of penalty, is that right, for not getting along?

[redacted]
A. Yeah.

Cornell:
Q. Was he in a position in the shower where he could have seen this thing or not?

[redacted]
A. How could he not see 'em.

Cornell:
Q. So the answer is "yes".

[redacted]
A. Yes. (okay)

Nemeth:
Q. Did you ever see the deputies use any flashlights or other type of impact weapons?

[redacted]
A. No.

Nemeth:
Q. To his the Black inmate?

[redacted]
A. No. (okay)

Nemeth:
Q. Do you know did that Black inmate, the Black trustee that was on the pay phone, did he go out and notify deputies on that?

[redacted]
A. I don't know, he went out, I don't know if he (inaudible). (alright)

Nemeth:
Q. And what was his, oh, you already told us his name, right. [redacted] okay. Any answer, while I can think of, is there anything else you wanna add? Did you, did you at any time see any deputies kick your cell?

[redacted]
A. No.

Nemeth:
Q. To make sure I understand your testimony right or what you're saying is that you *did* hear some scuffling sounds and that compared with what you heard from [redacted] and this White guy, they both told you they saw the whole thing?

[redacted]
A. Yeah, they said they said it. (okay)

Nemeth:
Q. And did they say they saw kicking?

[redacted]
A. Uh-huh.

Nemeth:
Q. Did [redacted] and [redacted] tell you they saw kicking?

[redacted]
A. Well [redacted] did.

Nemeth:
Q. [redacted] did. And so because of what you heard and what [redacted] said you believe there was kicking involved?

[redacted]
A. Yes. (okay)

Nemeth:
Q. But you didn't see any yourself?

[redacted]
A. No. (okay)

Nemeth:
Q. And you were afraid to tell all this stuff to the other deputies 'cause you didn't want any problems, you maybe spending some time here in the future, is that right?

[redacted]
A. Right. (okay)

Nemeth:
Q. That's all I have, we'll end the tape at 1552.

(end Tape 2, Side A)

[redacted]

I.A.B. INTERVIEW 11-14-95

WITNESS INTERVIEW

CASE NUMBER IAB 008383

DEPUTY [redacted]

Nemeth
Q. Today's date is November 14, 1995, Tuesday, time is 0035 hours. I'm Sergeant John Nemeth, Sheriff's Internal affairs. Present with me is Sergeant Ernie Gjendem of Internal Affairs Bureau and we are at the Central Jail Captain's Office interviewing Deputy [redacted] Deputy [redacted] I'm gonna ask you to state and spell your last name, and state your employee number for the record, please.

[redacted]
A. My name is [redacted] [redacted], employee number [redacted].

Nemeth
Q. Okay, and Deputy [redacted] prior to going on tape, I provided you with a copy of your Administrative Rights as a Sworn Witness in this case, which I see you indicated 'yes' to the questions and affixed your initials and signature to the form. Do you understand your rights as a sworn witness in this case?

[redacted]
A. Yes I do.

Nemeth
Q. And prior to going on tape, we briefly discussed with you, or asked you, what you believe you were here to be interviewed about, and you told us that you thought it had to with a force incident that occurred approximately a year ago. Is that correct?

[redacted]
A. That's correct.

Nemeth
Q. Okay, calling your attention to the date of October 27, 1994 on early morning shift, were you assigned to Central Jail as an early morning deputy?

[redacted]
A. Yes, I was.

Nemeth
Q. Okay, and that's still your assignment now, isn't it?

[redacted]
A. Actually, I'm assigned to, at Men's Central Jail and just upstairs in the hospital, 8000.

Nemeth
Q. Okay, back on October 27, 1994, what was your assignment?

[redacted]
A. 7100, Men's Central Jail.

Nemeth
Q. Okay, is that the hospital area?

[redacted]
A. Yes.

Nemeth
Q. Do you remember something unusual happening that night?

[redacted]
A. I guess, a force had occurred in, within the jail.

Nemeth
Q. Okay, you know where it occurred?

[redacted]
A. Somewhere in 4,000 I believe.

Nemeth
Q. Alright. Tell me your involvement in that incident.

[redacted]
A. Basically I was called to come downstairs to suit up, because I was going to be riding with an inmate in an ambulance to the hospital,LCMC.

Nemeth
Q. Okay, and where did you first encounter the inmate?

[redacted]
A. In the clinic area of Men's Central Jail.

Nemeth
Q. Okay, and when you did so, was he being treated by medical personnel at that point?

[redacted]
A. Yes, I believe so.

Nemeth
Q. And, do you know what his complaints of pain or injury were?

[redacted]
A. I don't believe he really had any complaints of pain or injury. I just, I noticed he had a laceration over one of his eyes, I can't remember which side.

Nemeth
Q. Okay, do you remember why he was ordered to be transported to a hospital?

[redacted]
A. For that laceration, I believe.

Nemeth
Q. The head injury?

[redacted]
A. Yeah.

Nemeth
Q. Okay, and did you prepare any reports or anything in regards to this incident?

[redacted]
A. No, I didn't.

Nemeth
Q. Do you keep a deputy notebook indicating your assignments or significant activities?

[redacted]
A. Yes. (laugh)

Nemeth
Q. Okay, was this, did you list this?

[redacted]
A. I didn't list this, no.

Nemeth
Q. So there's no, nothing written, nothing that you wrote that could help us in this case?

[redacted]
A. No.

Nemeth
Q. Alright. So how long after you got the clinic did you depart from the ambulance with the injured inmate?

[redacted]
A. Hmm, I would say approximately five to 10 minutes.

Nemeth
Q. Do you remember that inmate's name?

[redacted]
A. No, I don't.

Nemeth
Q. Do you remember what he looked like?

[redacted]
A. A black fellow, probably about five-eight or so, five-nine kind of small of build.

Nemeth
Q. Do you remember how old about he was?

[redacted]
A. Probably in his 30's, late 20's, early 30's.

Nemeth
Q. Okay, and so 10 minutes after you got to the clinic, you were in the ambulance with this inmate?

[redacted]
A. Yeah.

Nemeth
Q. ...this black inmate?

[redacted]
A. Approximately 10 minutes, yes.

Nemeth
Q. Okay, if I told you the name of the inmate, would it jog your memory?

[redacted]
A. Yeah, it probably will.

Nemeth
Q. [redacted]?

[redacted]
A. Sounds familiar.

Nemeth
Q. Doesn't do anything particularly for you?

[redacted]
A. No, I have a, I kinda can picture the guy, but the name doesn't ring a bell.

Nemeth
Q. Okay, let me show you a quick picture of him, to make sure we're on the same sheet of music here. Do you remember what ambulance company was involved?

[redacted]
A.   Well, it was probably either Risher or L.A.County or City Fire.

Nemeth
Q.   That picture look familiar?

[redacted]
A.   That's him.

Nemeth
Q.   Okay. For the record I showed Deputy [redacted] a picture of inmate [redacted], actually two pictures taken of him. Facial pictures, one is a facial front on shot, the other is a picture of the left side of inmate [redacted] face, which shows an injury that appears to be sutured and it shows inmate [redacted] hair in braids in the lower picture, and I guess also braids in the upper picture, although not completely braids. Okay, so you rolled to the hospital with that inmate, and what hospital did you go to?

[redacted]
A.   L.A. County Medical Center.

Nemeth
Q.   Okay, commonly known as LCMC.

[redacted]
A.   LCMC.

Nemeth
Q.   And you took him to the 13th floor jail ward.

[redacted]
A.   I believe so we may have stopped by emergency, I don't recall though. I know he was, typically, we would go into LCMC, go into the emergency and get cleared and they'd send us up to the 13th floor or they would hold him. And I, it was short stay there, so he must have been sent up to the 13th floor.

Nemeth
Q.   Okay, so the procedure is when you come there to check with an injured inmate, is to check in at emergency to verify he's okay, that he's not in some traumatic state or something?

[redacted]

A. Yes, correct.

Nemeth

Q. Okay, so you did that. Now on the ride to the ambulance, I mean, on the ride in the ambulance from Central Jail to LCMC, how long did that take about?

[redacted]

A. Probably five minutes, max.

Nemeth

Q. Okay, were you alone in the ambulance with [redacted] or was somebody else with you?

[redacted]

A. There were two other, an ambulance driver and then another paramedic or Risher, one of the guys working for Risher.

Nemeth

Q. Okay, and were they in the front part of the ambulance?

[redacted]

A. One was driving and one was in the back with me.

Nemeth

Q. Okay, were any other deputies with you?

[redacted]

A. You know what, I think there was one other deputy with me.

Nemeth

Q. Do you remember his name?

[redacted]

A. I believe it was Nowotny that was with me. Deputy Nowotny.

Nemeth

Q. Nowotny, I thought it was, it's not Nowotny, it's Nowotny.

[redacted]

A. It's Nowotny, yes.

Nemeth
Q. Okay, it's Nowotny. Okay, alright, so it was you, Nowotny and one of the, Risher, or ambulance attendants. Right?

[redacted]
A. Yes.

Nemeth
Q. And the ride, you said, took about, what 10 minutes? Is that what you said?

[redacted]
A. Approximately five.

Nemeth
Q. Five minutes. And in that time that you were in the ambulance was the inmate complaining of any pain or injury?

[redacted]
A. Not at all.

Nemeth
Q. Nothing at all? Okay, and when you got the hospital... Let me ask you this, while in the ambulance, did you ever touch the inmate?

[redacted]
A. No.

Nemeth
Q. What was his, was he secured some way while in the ambulance?

[redacted]
A. Just cuffed, I believe his left hand to the, to the rail of the gurney.

Nemeth
Q. Okay, so just his left hand was handcuffed to the gurney?

[redacted]
A. Yeah, just one hand, yeah.

Nemeth
Q. Were his ankles or legs tied up in any way? Or secured in any way?

[redacted]
A. I don't recall. I couldn't say. I only remember putting one handcuff myself, personally on.

Nemeth
Q. Okay, is it normal that you restrain a injured inmate's feet being transported in an ambulance or?

[redacted]
A. No, just if he's extremely combative at the time or something.

Nemeth
Q. And that's my next question, how was this inmate, Mr. [redacted] in this case?

[redacted]
A. He was complying, he had no problems at all.

Nemeth
Q. Okay, so he wasn't combative?

[redacted]
A. No, not all.

Nemeth
Q. He didn't try to kick you?

[redacted]
A. No, very talkative, very talkative.

Nemeth
Q. Did he try to punch you?

[redacted]
A. No.

Nemeth
Q. He didn't try to hurt you or assault you in anyway?

[redacted]
A. Not at all.

Nemeth
Q. Okay, so to the best of your recollection, he was only secured by one handcuff to his left hand, left wrist?

[redacted]
A. I believe so.

Nemeth
Q. And that the other end of that handcuff was fixed to the gurney?

[redacted]
A. Yeah.

Nemeth
Q. You're saying, he wasn't combative and didn't try to assault you. So I take it that you didn't have any occasion to use force on this individual then, is that right?

[redacted]
A. Not at all.

Nemeth
Q. Okay. Did you have to warn him verbally or tell him to keep in line or anything of that nature?

[redacted]
A. No, sir.

Nemeth
Q. I think you said earlier, he was very compliant?

[redacted]
A. Yeah.

Nemeth
Q. So, he didn't give you any problems, and you didn't have to touch him in any way, is that right?

[redacted]
A. That's correct.

Nemeth
Q. Okay. Did the ambulance attendants touch him or use any force on him?

[redacted]
A. No, they didn't.

Nemeth
A. Did you see anybody, either yourself, Deputy what is it Nowadki...

[redacted]

Nemeth
Q. Nowotny, or the ambulance attendant, did either of the three you in that when in the back with the inmate, touch the inmate's groin area?

[redacted]
A. No, we didn't.

Nemeth
Q. From the time you arrived to the clinic to the time you got to Los Angeles County Medical Center, did anybody touch the inmate's groin area?

[redacted]
A. No.

Nemeth
Q. Were you in the constant company of the inmate during those times?

[redacted]
A. Yes, I was.

Nemeth
Q. Okay, so if I understand you correctly, from the time you got to the clinic which was, do you know what time it was, what hour it was?

[redacted]
A. No, I don't, I don't recall.

Nemeth
Q. Can you approximate it?

[redacted]
A. I probably couldn't even approximate it.

Nemeth
Q. Okay, it's indicated in records though, right?

[redacted]
A. Yeah, I'm sure it is.

Nemeth
Q. When you indicated when the ambulance arrived and when the ambulance departed?

[redacted]
A. Yes, it is.

Nemeth
Q. And so for that entire time, it's safe to say nobody attacked that inmate, correct?

[redacted]
A. That's correct.

Nemeth
Q. Now, did you hear, when you got to LCMC, did you hear the inmate complain of pain or injury at that point to the medical personnel there?

[redacted]
A. No, I didn't.

Nemeth
Q. You didn't?

[redacted]
A. Not at all.

Nemeth
Q. But is it part of normal procedure that they would ask him, "what's wrong with you, or what hurts," or something?

[redacted]
A. Yes.

Nemeth
Q. So, did that occur?

[redacted]
A. Did they ask him?

Nemeth
Q. Right.

[redacted]
A. Like I said, it's normal procedure to go there and some, it depends on the ambulance company or the driver, whether they want to stop in ER or not, and then we go up from there. If they think he just needs to shoot up to 13, then we shoot up to the 13th floor. So, I can't say that we did stop by ER, but I can't say that we didn't.

Nemeth
Q. Okay.

[redacted]
A. I do this on a regular basis so it was (inaudible) type of thing.

Nemeth
Q. Right, no problem. Okay, so, you don't have any remembrance of that but when you got, at least when you get to the 13th floor, somebody asked him, "what's wrong with you?" Correct?

[redacted]
A. I, usually what happens, is that I will go in and they'll ask me, you know, "Where are you from," and I tell them, and then they say, "What's his injuries," and I told them, "A laceration over his eye."

Nemeth
Q. And that's all you were aware of, correct?

[redacted]
A. Yes, that's all I was aware of.

Nemeth
Q. Okay, the inmate didn't complain about any other injuries?

[redacted]
A. No, not at all.

Nemeth
Q. Okay, did you hear the inmate interviewed by medical staff, himself, not you?

[redacted]
A. No I didn't.

Nemeth
Q. You were already, what, gone by that point, or?

[redacted]
A. Yeah, the deputies will check him, search him, unhandcuff him, give me the handcuffs and I'm done. I'm out of there.

Nemeth
Q. Okay. Alright. So you never heard the inmate complain of any injuries then? Right?

[redacted]
A. No, not all.

Nemeth
Q. Not even the head injury?

[redacted]
A. Not even the head injury.

Nemeth
Q. Which they saw and knew existed, correct?

[redacted]
A. Correct.

Nemeth
Q. Okay, did you ever hear him make, refer to any injury to his groin or testicles?

[redacted]
A. No, I didn't.

Nemeth
Q. But again, you weren't present when he was interviewed by medical staff? Right?

[redacted]
A. That's correct, I wasn't present.

Nemeth
Q. Alright. Okay, now you said earlier the inmate was talkative, what was he saying?

[redacted]
A. He kept repeating that the deputy saved his life. Over and over and over, "Deputies saved my life, the crips were after me." That's what he kept saying the whole ride.

Nemeth
Q. Okay, and did you learn at some point how the inmate came to be in this position, in the, you know, going to the hospital for a head injury?

[redacted]
A. Yeah, I was told that he had to be restrained up in forty, what is it, I don't know what you said 4000 or something, 4600 I believe or so, and that's it.

Nemeth
Q. Okay, did you know had been in a fight with a deputy?

[redacted]
A. Yes, I did.

Nemeth
Q. Okay, and that his injury resulted from forced used on him restraining him during that fight?

[redacted]
A. I, I can't say that I knew the injury was from the force, all I can say is that I knew he had an injury from that incident.

Nemeth
Q. Okay, all right. So, you knew what the inmate was saying about the deputy saving him from crips didn't match up to what you had been told by, I assume other deputies told you that?

[redacted]
A. Told me that, I don't understand the question.

Nemeth
Q. That, okay, you said you learned, when you got there, that the reason the inmate was going to the hospital, was because he sustained an injury from an incident involving a fight with deputies.

[redacted]
A. Yeah, correct.

Nemeth
Q. Okay, who told you that.

[redacted]
A. Shoot, I don't remember there were several...

Nemeth
Q. A deputy?

[redacted]
A. A deputy, and there is several deputies in the clinic.

Nemeth
Q. Some deputy, you don't know who?

[redacted]
A. No, I can't recall who.

Nemeth
Q. Okay, and that's how you learned that, right?

[redacted]
A. Yes.

Nemeth
Q. So when the inmate in the ambulance was telling you the deputy saved him from a bunch of crips, you knew that didn't add up to what you had been told before, correct?

[redacted]
A. Yeah, I guess so.

Nemeth
Q. Right?

[redacted]
A. Yeah.

Nemeth
Q. Nobody said anything about a fight with crips, right?

[redacted]
A. That's right.

Nemeth
Q. So, did you form any opinions about the inmate or anything like that, based on his statements and his demeanor or anything?

[redacted]
A. Well, I wouldn't, see I had prior contact with this inmate before.

Nemeth
Q. Before this incident?

[redacted]
A. Yeah, he was housed on 7100, and his demeanor is same, it seemed to be the same as it has always been when he was on 7100.

Nemeth
Q. And what's that?

[redacted]
A. 7100, oh, his demeanor, his demeanor was basically very talkative, kinda hyperactive and just, that's basically the way to explain it, hyperactive and kinda talkative.

Nemeth
Q. Okay. What is 7100, is that a hospital area or something?

[redacted]
A. Yeah, it's the Psych[iatriac] Ward of Men's Central Jail, basically.

Nemeth
Q. Okay, and when you had previous contact with this inmate was he, was he ever combative, or assaultive or anything?

[redacted]
A. Not that I can recall, no.

Nemeth
Q. Okay, did you have any problems with him personally?

[redacted]
A. No, none at all.

Nemeth
Q. Was he restrained or anything when you had contact with him on 7000? Was he in four points?

[redacted]
A. I believe he was strapped down, yeah in four points several times, I can't recall how many, but I do recall him being strapped down to a bed.

Nemeth
Q. Okay, alright, so did you think that based on his statements or what deputies were saying, that, that he was just crazy or what did you attribute his statements to?

[redacted]
A. I basically thought he was just crazy.

Nemeth
Q. Okay, alright. He was in your constant supervision or care from the time you picked him up at the clinic 'til the time he was received at, by deputy personnel at LCMC, right?

[redacted]
A. Correct.

Nemeth
Q. And nobody touched his scrotum, his testicles or anything while he was in your care, right?

[redacted]
A. Not at all. No.

Nemeth
Q. Okay, Sergeant Gjendem...

Gjendem
Q. Yeah, who at, in the clinic here, who turned this inmate over to you? Was it the sergeant or senior or did somebody come down and turn this inmate over to you?

[redacted]
A. I don't recall, I believe it may have been the senior. There were several, there were several deputies down there, probably 10 to 12 deputies, and it's usually just, I just walk into the clinic and pick the guy up, you know, and I cuff him up. I make sure he's cuffed to the gurney and we take him out. No one really turns him over to me and if somebody did, I don't think it was really an official thing.

Gjendem
Q. Well, somebody must be telling you what you're gonna be doing, though?
[redacted]
A. Yeah, they're telling me yeah, we're transporting this, I got kind of, I already know what's going on basically. It's the same, LCMC runs is when we take a guy to the hospital. Well, it's something that occurs, can occur ten times a week, or can occur once a month, it's just whenever it comes up. But I knew what I was down there to do, which would be transport him to LCMC.

Gjendem
Q. Did you see anybody down there with the video camera?

[redacted]
A. Ooh.

Gjendem
Q. In the clinic?

[redacted]
A. I can't say I did. No. I would say, no.

Gjendem
Q. You don't remember anybody video taping?

[redacted]
A. I don't remember, no.

Gjendem
Q. Did you see the sergeant there? The 4000 sergeant?

[redacted]
A. I would say no, because I can't even recall who it was.

Gjendem
Q. Did you see the watch commander down there?

[redacted]
A. I would have to answer no to that, too.

Gjendem
Q. You talked about the inmate on the way going over to the hospital. You said he was pretty talkative and he was talking about the crips and everything. Did you hear that account of the incident about the crips, also back at the clinic?

[redacted]
A. Yes, I did.

Gjendem
Q. You did?

[redacted]
A. Yes.

Gjendem
Q. You sure you heard it again in the ambulance on the way over?

[redacted]
A. Yes, in the clinic I heard it from him, from the inmate.

Gjendem
Q. Yes, and in, in the ambulance did you hear it from him again?

[redacted]
A. Oh, yes, yes.

Gjendem
Q. Several times?

[redacted]
A. Several times, he just kept saying the same thing.

Gjendem
Q. Was he ever ranting and raving like a lunatic or anything like that?

[redacted]
A. I would say, no, but he was acting very sketchy by what he was saying and he was talking so much, you know. I wouldn't say he was acting like a lunatic, but he was acting strange.

Gjendem
Q. Did [redacted] ever tell you what actually happened in the module?

[redacted]
A. No, I never asked and no one ever told me.

Gjendem
Q. I'm talking about [redacted], did he ever tell you what happened in the module?

[redacted]
A. Oh, [redacted], no.

Gjendem
Q. Did [redacted] ever tell you what happened in the module, how he got the cut over his eye?

[redacted]
A. No, no he didn't.

Gjendem
Q. And you knew that the story that, about the crips was not true?

[redacted]
A. Well, yes and no. I knew the deputies had, had force with him, but I did not know he may have had prior contact with the crips. I don't know. I would have to answer I don't know on that.

Gjendem
Q. Nobody ever down at the clinic discounted that when he was at the clinic?

[redacted]
A. No, no one did.

Gjendem
Q. And you didn't ask?

[redacted]
A. No.

Nemeth
Q. The only other question I have for you is, have you talked to, well obviously at this point you know that some deputies have been released, correct?

[redacted]
A. Yeah.

Nemeth
Q. Regarding this incident, correct?

[redacted]
A. Yes.

Nemeth
Q. Have you had any contact with them?

[redacted]
A. With one of them, yes.

Nemeth
Q. Who?

[redacted]
A. Kluth, Deputy Kluth.

Nemeth
Q. And when did you have contact with Kluth?

[redacted]
A. I would say approximately may be three weeks ago or so.

Nemeth
Q. Okay, let me just, for to the transcriber that Kluth is K-L-U-T-H. And you had contact with Deputy Kluth two or three weeks ago?

[redacted]
A. Yes.

Nemeth
Q. What was the circumstances?

[redacted]
A. I had gone to the Emporium at the Star Center and bought some beer and I just basically stopped by to see a buddy of mine, that's all.

Nemeth
Q. Okay, so you know [redacted] somewhere and out [redacted] there.

[redacted]
A. Yeah, yeah.

Nemeth
Q. And you stopped in to-, where's he at [redacted] or something like that? Or [redacted]?

[redacted]
A. Yeah, I believe so, one of those two.

Nemeth
Q. Okay, how did you learn [redacted]?

[redacted]
A. Just through rumor and hearing it from the guys here around the jail.

Nemeth
Q. Are you friends with Kluth?

[redacted]
A. I would say, no.

Nemeth
Q. Just acquaintances?

[redacted]
A. Just acquaintances, worked with him for a while.

Nemeth
Q. How about Sloan?

[redacted]
A. Same thing.

Nemeth
Q. Did you visit him while you were down at the [redacted] too?

[redacted]
A. I had gone to visit him and I saw Kluth.

Nemeth
Q. Oh, okay, so you saw Sloan as well then?

[redacted]

A. No, Sloan wasn't there at the time, he was off that day. I think.

Nemeth

Q. Okay, I see. What did you and Kluth talk about when you visited?

[redacted]

A. Just basically asked him how are things going and, "You guys coming back soon?" You know, the type of routine questions.

Nemeth

Q. Okay. What did he say?

[redacted]

A. He basically told me they hadn't started the investigation yet, and I said, "Oh, sure is taking a while."

Nemeth

Q. Okay. Did he tell you or suggest for you anything to say?

[redacted]

A. Oh, no not at all.

Nemeth

Q. Did he ask you to help him out in any way?

[redacted]

A. Nope.

Nemeth

Q. Did he tell you anything that had happened that night?

[redacted]

A. No, nothing.

Nemeth

Q. Did you later learn from talking to deputies what had happened that night?

[redacted]

A. I'm sorry, I didn't hear you.

Nemeth
Q. Did you later learn from talking to other deputies what had happened that night?

[redacted]
A. Yeah, I kind of got a vague story on what had happened.

Nemeth
Q. Where did you get the vague story from?

[redacted]
A. Just through the rumor mill. No one in particular.

Nemeth
Q. Okay, and what were you told through the rumor mill?

[redacted]
A. That [redacted] had jumped Deputy Kluth and was choking him out and I believe Sloan responded to assist him and had to use some force on him, which no one talked about what kind of force, and it was over from there.

Nemeth
Q. Did you hear any rumor mill, or any reason why these guys would be [redacted], because based on what you described, there is nothing.

[redacted]
A. Yeah, I heard that they got [redacted] for apparently kicking him or punching him in the scrotum area, I guess.

Nemeth
Q. Did you ever learned what [redacted] actual injuries were?

[redacted]
A. No, I didn't.

Nemeth
Q. Did you ever hear that he had a testicle removed?

[redacted]
A. Yes I did, actually I did.

Nemeth
Q. You did hear that?

[redacted]
A. Yes, I did.

Nemeth
Q. Did you ever ask [redacted], I mean Sloan were you, not Sloan Kluth when you were visiting a couple weeks ago asking him, "Hey, how did this guy lose a nut?"

[redacted]
A. No, I never asked him.

Nemeth
Q. Ever wonder?

[redacted]
A. I wondered how he could've by the way he was acting in that ambulance. I just couldn't see how somebody who got hit in the testicles could act as calm as he did, or I shouldn't say calm, he wasn't acting calm he was acting more, he didn't look like he was in pain at all. That's what it kind of seemed to me. I don't know.

Nemeth
Q. Yeah.

[redacted]
A. Kind of fishy.

Nemeth
Q. Now you've dealt with mental observation inmates and what not in your five years or so assigned as a hospital deputy, in different capacities?

[redacted]
A. Yes. Uh-huh.

Nemeth
Q. And in doing so have you ever noted that mental observation or psych-, what's the word I'm looking for, psychotic-type inmates

either have a higher threshold for pain or don't feel pain at all in some instances, ever found that to be the case?

[redacted]

A. I find that to be true.

Nemeth

Q. So, do you think that fits in with Mr. [redacted] in your experience with him having been in, previously been housed in four point restraints as a psychiatric or psychotic inmate or patient and then, you know, your statement is that he was kind of rambling or fast speech while in the ambulance, does that kind of fit a pattern for you?

[redacted]

A. As in the pain threshold-type thing?

Nemeth

Q. The possibility of that.

[redacted]

A. There is a possibility I guess but it just seemed like to me, I mean, you know, even if you are a mental observation patient, reality is gonna set in. The pain is gonna hit you some time, I can't see 15, 20 minutes going by and he don't feel it, unless you're under the influence or something like, which he's been in custody, so I can't see him being that way.

Nemeth

Q. Do you know if inmate [redacted] was prescribed any drugs while he was in custody?

[redacted]

A. I don't know.

Nemeth

Q. Is it possible that inmates here receive drugs, don't they?

[redacted]

A. Sure, oh yeah, it's possible.

Nemeth

Q. So, is it possible he had some kind of drug in his system?

[redacted]
A. It is probably highly possible, yeah.

Nemeth
Okay. Sergeant Gjendem.

Gjendem
Q. Yeah, when the, during the transportation of this inmate, [redacted] over to LCMC from here, did you ever notice his hands?

[redacted]
A. No.

Gjendem
Q. Did you ever notice he was making a fist or anything like that?

[redacted]
A. No.

Gjendem
Q. Clenching his fists?

[redacted]
A. No.

Gjendem
Q. Would have noticed it?

[redacted]
A. Sure (laugh)

Gjendem
Q. If he had done something like that?

[redacted]
A. Yeah, I kept my eyes on him.

Gjendem
Q. Did you ever see him close his eyes, and grit his teeth, like he was in a lot of pain?

[redacted]
A. No, never.

Gjendem
Q. Ever see him go stiff or anything like that, as if he was in a lot of pain?

[redacted]
A. No, he basically talked to me the whole way over. I even attempted to ask him what happened, and he replied, "The deputy saved my life, the crips were after me." That's what he kept saying the whole way over.

Gjendem
Q. But you know that not to be the truth?

[redacted]
A. (laugh) Well, yeah, yeah, I did, but, I mean, anything can happen.

Gjendem
Q. And you don't know what kind of medicine he was taking, or anything like that?

[redacted]
A. No, I don't know, no.

Gjendem
Q. Do inmates up in 4400, do they take medicine do they take any meds, do you know?

[redacted]
A. Yes.

Gjendem
Q. Most of them do?

[redacted]
A. I believe 44 is a pill module. I don't know if it was at the time, it is now, so I would assume he was on some sort of medication.

Nemeth
Q. Just once again, [redacted] was, you said, I think you said earlier you characterized him as very compliant and was he ever aggressive towards you, or anything like that?

[redacted]
A. Never aggressive towards me.

Nemeth
Q. Did you ever perceive him as a threat?

[redacted]
A. Never.

Nemeth
Q. One last question. Did you notice, did [redacted] have any foot wear on?

[redacted]
A. I don't recall if he did or not, I don't know.

Gjendem
Q. Was he just talking and rambling when he was talking, or was he talking like you and I are talking right now?

[redacted]
A. He was basically rambling, and then if I kind of raised my voice towards him a little bit, he would look my way and start talking again, to me, you know, he would actually hear me. But he was basically just rambling the same statement over and over and over.

Gjendem
Q. Just non-stop?

[redacted]
A. Non-stop.

Nemeth
Q. About how the deputies saved him from the crips?

[redacted]
A. Uh-huh.

Nemeth
Q. Is that, yes?

[redacted]
A. Yes, oh yeah, I'm sorry, yes. (laugh)

Nemeth
Q. Um-hmm, um, hmm.

[redacted]
A. It doesn't work, I know. (laugh)

Nemeth
Q. Sound the same. Okay, anything else?

Gjendem
Q. No, that's all I have.

Nemeth
Q. Okay, Deputy [redacted] is there anything you want to add to this interview that you feel might be important, something we left out or aren't aware of that you think is relevant?

[redacted]
A. No, I believe that's it.

Nemeth
Q. Okay, we'll end the interview, time is 0100 hours.

END OF INTERVIEW

ADMI STRATIVE RIGHTS/SWORN WIT SSES

NOTE: This admonition is for Department personnel who are being interviewed in the capacity of **SWORN WITNESSES**.

I am SGT. JOHN NEMETH and this is SGT. ERNIE GJENDEM of the Internal Affairs Bureau, which is commanded by Captain ~~Judith A. Lewis.~~ NORMAN L. SMITH

You are about to be questioned as part of an official Los Angeles County Sheriff's Department administrative investigation. You are here as a witness in a matter which concerns another employee. The complainant has not filed a complaint against you, and you are not under investigation as a subject in this matter.

Do you have a Policy and Ethics Chapter of the Manual of Policy and Procedures? Yes [X] No [ ]
Are you familiar with its contents? Yes [X] No [ ]

You are hereby advised that the provisions of the Government Code, generally referred to as the Peace Officers' Bill of Rights, do not apply in this instance. You are specifically reminded that Policy and Ethics Section 3-01/040.70 and 3-01/040.75 require that you make true, full and complete statements. Any refusal to do so may result in your discharge or other punitive action.

NOTE: Sworn personnel being interviewed as witnesses only and who are not under investigation or not personally charged with any violation do not have a right to have a representative present during the interview. If it is determined during the interview that the deputy is likely to be subject to discipline, the interview shall be stopped and the deputy shall be advised that his status has changed to that of a subject.

In the event the witness declines to answer questions on the grounds of self-incrimination, the witness/employee shall be readvised of his administrative rights as though he were a subject. **You are being ordered not to discuss the facts of this case or any of the issues discussed during your interview with anyone other than your designated representative or attorney in this matter.**

Initials [redacted]

The above admonition has been explained to me and I understand its contents.

DATE: 11-13-95 FILE NO. 008383

Person Interviewed: [redacted] (Signature) [redacted] (Print) [redacted]

INVESTIGATOR: [signature] (Signature) JOHN A. NEMETH (Print)

I/M [redacted]

I.A.B. INTERVIEW 10-29-94

WITNESS INTERVIEW

CASE NUMBER IAB 008383

[redacted] **Booking #** [redacted]

Nemeth:
Q. Okay, today's date is Saturday October 29th. The time is five minutes after midnight. I'm Sargent John Nemeth of the Internal Affairs Bureau. This is my partner, Sergeant Cornell from the Internal Affairs Bureau. We are here today at what would be considered, I guess, Pitchess Honor Rancho, Ranch Facility, interviewing inmate [redacted] Booking # [redacted]. [redacted] what is your home address?

[redacted]
A. [redacted] (Inaudible), [redacted].

Cornell:
Q. I need you to speak up nice and loud for the tape. You can slide up a little bit if you need to.

Nemeth:
Q. Could you do it one more time because . . .

[redacted]
A. [redacted].

Nemeth:
Q. And the zip code there?

[redacted]
A. [redacted]

Nemeth:
Q. Do you have a telephone number there?

[redacted]
A. No.

Nemeth:
Q. No phone?

[redacted]
A. No.

Nemeth:
Q. Okay, do you have a work address?

[redacted]
A. No work.

Nemeth:
Q. Okay.

Cornell:
Q. If we need to call you in an emergency, who can we call to get a message to you?

[redacted]
A. Um. Grandparents in [redacted]

Cornell:
Q. Just let me have one of their names and the phone number.

[redacted]
A. [redacted].

Nemeth:
Q. Okay. The purpose, like my partner started to explain you. The purpose of our visit here is to ask you some questions about your stay at Central Jail. Now, you, prior to going on tape, you mentioned that you had been an inmate in Module 4400, is that right?

[redacted]
A. Um-hm.

Nemeth:
Q. Okay. And do you remember when you arrived in Module 4400, what day it was, or the date?

[redacted]
A. Thursday night, I think it was.

Nemeth:
Q. How long were you in module . . .

[redacted]
A. Or Friday morning.

Nemeth:
Q. Okay. How long . . . do you remember how long you were in that module 4400.

[redacted]
A. Just over the weekend.

Nemeth:
Q. Just for two or three days.

[redacted]
A. Um-hm.

Cornell:
Q. Okay, now you're talking about not two days ago Thursday, but a week before that? Because today is now Saturday.

[redacted]
A. Um. Yeah, it's a week before that.

Cornell:
Q. Today is the 29th. You were in there prior to that?

[redacted]
A. Let me see, um, I went to court Monday. Yeah, I guess it was the weekend prior to that.

Cornell:
Q. Okay, so you went there on Thursday the week before, stayed over the weekend, went to court on Monday . . .

[redacted]
A. Right.

Cornell:
Q. . . . okay, and then this whole week you were in 4400, and then you were transferred to . . .

[redacted]
A. Yeah.

Cornell:
Q. . . . you were transferred out here then yesterday, Friday the 28th, is that correct?

[redacted]
A. It must have been Thursday.

Cornell:
Q. Thursday the 27th.

[redacted]
A. Right.

Cornell:
Q. Sometime during the day or the evening?

[redacted]
A. It was early morning.

Cornell:
Q. Okay. Early morning hours?

[redacted]
A. Um-hm.

Cornell:
Q. Okay.

Nemeth:
Q. Now, you said you were in Cell B-4, is that right?

[redacted]
A. That's right.

Nemeth:
Q. Okay. And do you remember anybody else in that cell?

[redacted]
A. No, the names no.

Nemeth:
Q. Okay. Can you describe the other occupants of the cell when you were there? They're obviously all males. Were there any White . . . other White guys besides yourself?

[redacted]
A. One other White guy and three Blacks if I remember right.

Nemeth:
Q. So a total of five people in the cell?

[redacted]
A. No, there was eight of us, and a couple of Mexicans.

Nemeth:
Q. Okay. Three, two and two is seven.

[redacted]
A. I really didn't pay close attention to it.

Nemeth:
Q. Okay. There were eight people in the cell, is that what you're saying.

[redacted]
A. 6 man cell, eight people.

Nemeth:
Q. Okay. Two slip on the floor or something?

[redacted]
A. Um-hm.

Nemeth:
Q. All right. You identified yourself, another white guy, three Blacks, two Hispanics . . .

[redacted]
A. Yeah, I believe that was it, something like that.

Nemeth:
Q. Okay, that's seven. Is that about right then, or?

[redacted]
A. Yeah.

Nemeth:
Q. About seven guys, not eight?

[redacted]
A. Um-hm, cause that one night the guy got shipped out somewhere so, yeah, that's right.

Nemeth:
Q. Okay, do you remember speaking to the Black people that were in the cell, can you describe each of them?

[redacted]
A. Not really, no.

Nemeth:
Q. No.

[redacted]
A. (Inaudible)

Nemeth:
Q. Did anyone of them stick out in your memory for any reason.

[redacted]
A. No.

Nemeth:
Q. No. Did you witness any incidences involviug deputies using force on a Black inmate, while you were there?

[redacted]
A. No. Um-hm.

Nemeth:
Q. Never heard or saw anything?

[redacted]
A. No.

Nemeth:
Q. Did a sergeant or any other member of the Sheriff's Department other than myself or my partner today talk to you regarding an incident involving a use of force that occurred in Module 4400?

[redacted]
A. Uh-uh.

Nemeth:
Q. No. Okay. If I were to ask you, do you know an inmate by the name of [redacted] would you say yes or no.

[redacted]
A. No. It doesn't ring a bell, no.

Nemeth:
Q. Did you ever call [redacted] wife.

[redacted]
A. No.

Nemeth:
Q. You never made a phone call to a lady by the name of [redacted]

[redacted]
A. No.

Nemeth:
Q. Okay. So when we speak to Mrs. [redacted] she's going to say she never heard of you and you never called her to tell her that her husband was beaten up or anything like that.

[redacted]
A. No.

Nemeth:
Q. Okay. Was there another . . . the other white guy in the cell. Was his name [redacted]

[redacted]
A. Um.

Nemeth:
Q. Do you know?

[redacted]
A. Yeah, his name was [redacted] Um-hm.

Nemeth:
Q. Okay. And did you notice . . . did he have a relationship with . . . the only thing I'm thinking is there were two male white guys named [redacted] in the cell, okay?

[redacted]
A. Um-hm.

Nemeth:
Q. Okay. And this Black man that I'm talking about just to . . . so, you know, reveal the mystery to you, says that one of the white guys in the cell was . . . he was friends with and he thought it was you, but we didn't show him a picture of you or anything else and he just thought [redacted] was the right last name, but you don't know. You don't know? Do you remember that the other white guy named [redacted] have a friendship with a Black guy, or do you know?

[redacted]
A. Not that I noticed, see most of the time he slept.

Nemeth:
Q. The other [redacted]

[redacted]
A. Um-hm.

Nemeth:
Q. The other white guy names [redacted]

[redacted]
A. Yeah.

Nemeth:
Q. He was sleeping most of the time?

[redacted]
A. Yeah.

Nemeth:
Q. Okay. So you don't have any memory of this incident at all?

[redacted]
A. No.

Nemeth:
Q. Okay, when were you transferred at 4400, exactly, do you remember?

[redacted]
A. Exactly when was I transferred out?

Nemeth:
Q. Um-hm.

[redacted]
A. Um. Not really. Thursday morning?

Cornell:
Q. What time do you think you left the module?

[redacted]
A. Wednesday morning, Thursday morning. We left after dinner, probably about 8 o'clock.

Cornell:
Q. In the evening?

[redacted]
A. Yeah.

Cornell:
Q. On Wednesday or Thursday?

[redacted]
A. I'm not positive. It might have been Wednesday.

Nemeth:
Q. Well, my records show that you were sent here on the 27th, which is Thursday.

[redacted]
A. So it must have been Thursday morning then.

Nemeth:
Q. Okay. What time Thursday morning.

Cornell:
Q. When you say Thursday morning, you just said 8 o'clock?

[redacted]
A. Well, (laugh) you know how the system is?

Cornell:
Q. I know time kind of runs together when you're in jail, but it's important if you can kind of take a minute and reflect as to what time. When you got on the bus, was it daytime or night time.

[redacted]
A. Oh, it was night time.

Cornell:
Q. Okay.

[redacted]
A. It was just like three in the morning.

Cornell:
Q. Okay.

[redacted]
A. So, they might have called me out 8 o'clock Wednesday evening, would be to the best of my knowledge. I think that's probably what it was.

Cornell:
Q. And did they hold you somewhere before they put you on a bus?

[redacted]
A. Yeah. Downstairs in the holding cells.

Cornell:
Q. For how long do you think you were there?

[redacted]
A. Three hours, maybe.

Nemeth:
Q. So that would have you leaving about midnight, then, on Wednesday, if you said . . .

[redacted]
A. Yes, he called me out of 4400, stuck us in the day room, about 8 o'clock, I guess, 'cause there's no clocks.

Nemeth:
Q. 8 o'clock in the morning, or what?

Cornell:
Q. At night.

[redacted]
A. At night in the evening p.m.

Nemeth:
Q. On Wednesday?

[redacted]
A. Um-hm.

Nemeth:
Q. And from the day room, you made your way down the IRC holding cell, or something?

[redacted]
A. Right. Um-hm.

Cornell:
Q. And then they put you on a bus and you arrived here about, what time? 'Cause you said it was about . . .

[redacted]
A. 4:30, about 4 in the evening, 4 in the morning, I mean.

Cornell:
Q. Okay, so they put you on the bus about 3 am and you got here about an hour, an hour or so later.

[redacted]
A. Um-hm.

Cornell:
Q. Okay. Were you . . . so were you in the module, were you in 4400 when an inmate from Baker 4 was involved in a fight with any of the deputies?

[redacted]
A. No. Not that I . . . no I never seen nothing like that go down. I'm sure I would have remembered something like that.

Cornell:
Q. I was going to say is that, would that be a significant event in your mind that you would remember.

[redacted]
A. Oh, yeah, um-hm, no doubt.

Cornell:
Q. Are you taking any kind of medication at all?

[redacted]
A. No.

Cornell:
Q. Been treated for any kind of psychological problems?

[redacted]
A. No. Everything else.

Cornell:
Q. We may have the wrong [redacted] then.

[redacted]
A. Yeah. I think that's what it is. Obviously.

Cornell:
Q. Okay. Yeah. There were two guys . . . there were two guys named [redacted] that supposedly witnessed the altercation and we were led to believe that it was you. That's why we're here in the middle of the night bothering you because it was a significant event and we need to find out some information

Nemeth:
Q. See you're listed as a resident of that cell, [redacted] And it shows that you were transferred to NCCF on the 27th, but it doesn't say when. This incident happened at a few minutes after midnight that day, so if you say you were taken out at 8 PM Wednesday the 26th, obviously you weren't there to see it, because you said you were placed down in a holding cell for some period of time before you got on your bus, so maybe you were down there when this happened, which is likely but we still needed to touch bases with you, talk to you and you say you don't know anything about it.

[redacted]
A. Yeah, I didn't see nothing like that happen.

Nemeth:
Q. Okay, that's fine.

Cornell:
Q. You're sure, though?

[redacted]
A. I'm positive.

Nemeth:
Q. All right. Okay. We'll end the taped interview at 0014 hours.

I/M [redacted]

I.A.B. INTERVIEW 11-17-94

WITNESS INTERVIEW

CASE NUMBER IAB 008383

[redacted]

Nemeth
Q. Today's date is Thursday, November ther--17th. The time is 1554 hours. I'm Sergeant John Nemeth of Sheriff's Internal Affairs and present with me today is my partner Sergeant--what happened to the tape, why is it not working, here we go, there we go--okay.

Cornell
Q. (Inaudible.)

Nemeth
Q. Yeah, I had the (inaudible) Okay, so anyway, Sergeant Cornell and myself are here today at the home of Mr. [redacted], is that right?

[redacted]
A. Yes.

Nemeth
Q. Okay [redacted]. And your address here is [redacted]-

[redacted]
A. --Yes--

Nemeth
Q. --[redacted]--

[redacted]
A. --Yes--

Nemeth
Q. --[redacted] what?

[redacted]
A. [redacted], is my zip code.

Nemeth
Q. [redacted]. And what's the phone number here Mr. [redacted]

[redacted]
A. [redacted].

Nemeth
Q. Okay. Very good.

Unknown Female Voice
A. 51

[redacted]
A. 51. Isn't no number 1 in your phone number.

Nemeth
Q. She says 51.

[redacted]
A. (Inaudible) for a long time. 20 years (Inaudible)

Nemeth
Q. Okay. We need your confirmation of the phone number. Okay, Mr. [redacted] as we told you before going on tape, we're here conducting an interview with you regarding an incident that happened in the Los Angeles County Men's Central Jail. Were you in Los Angeles County Men's Central Jail on October 27, 1994, this year?

[redacted]
A. Yes.

Nemeth
Q. Okay. And what module were you assigned to?

[redacted]
A. I was in Bakersfield 4.

Nemeth
Q. Okay. That cell--

[redacted]
A. --cell--

Nemeth
Q. --Baker 4. Is that right?

[redacted]
A. Baker 4. Yeah.

Nemeth
Q. Okay. Do you remember the module? Was it module 4400?

[redacted]
A. Module 4400.

Nemeth
Q. Okay. Cell Baker 4.

[redacted]
A. Yeah.

Nemeth
Q. Okay. And before we went on tape you, you were describing a person that was in that cell that is a person similar to some pictures we showed you and you said he was a--although he looked somewhat different from these pictures now then he did in jail, but he was a male black, is that right?

[redacted]
A. Yes (inaudible).

Nemeth
Q. You said he constantly talked.

[redacted]
A. Constantly talked.

Nemeth
Q. Did you hear him referred to by any name or nickname or anything like that?

[redacted]
A. He told me his name, but all, you know, everybody in jail has a nickname.

Nemeth
Q. Right. Did you--do you remember either his name or his nickname at all?

[redacted]
A. No. I don't remember (Inaudible). He told me, though, many times.

Nemeth
Q. All right. You said that he wanted to sleep on the floor

because he had told you he was an epileptic and was afraid since he wasn't receiving medication that he might have a seizure and might fall out of his bunk, is that right?

[redacted]
A. Yes. Yes.

Nemeth
Q. Okay. At some point did something happen to this inmate that we're talking about? This black inmate that wanted to sleep on the floor, who was an epileptic?

[redacted]
A. Yes. I was most told about it.

Nemeth
Q. You were told about it?

[redacted]
A. Um.

Nemeth
Q. Did you see any, anything that happened?

[redacted]
A. I didn't see nothin'.

Nemeth
Q. Didn't see anything. But what were you told?

[redacted]
A. I was told by this--another friend, 'cause I asked them what happened to him when I woke up.

Nemeth
Q. Right.

[redacted]
A. And they told me a deputy come to the cell and the Deputy Bartum jumped on him and beat him up.

Nemeth
Q. Uh-huh.

[redacted]
A. And he was scared he was dead.

Nemeth
Q. Who told you this? Another friend you say?

[redacted]
A. Another friend.

Cornell
Q. What does he look like?

[redacted]
A. He was a black male. And there was a white male slept over him. He slept, he slept on the bottom bunk.

Nemeth
Q. Okay. The white guy slept in the bunk above him?

[redacted]
A. Oh yeah, above him.

Cornell
Q. Who told you the story though, the black guy or the white guy?

[redacted]
A. Both of 'em.

Cornell
Q. They both did.

[redacted]
A. They, everyone of them seen me, but me.

Nemeth
Q. Do you remember either of their names? The white guys name, do you remember his name?

[redacted]
A. (Inaudible)

Nemeth
Q. S?

[redacted]
A. S, s, s. Somethin'.

Nemeth
Q. How about [redacted]? Let me ask you if you remember this name,

[redacted]?

[redacted]
A. Yeah, that's what it is.

Nemeth
Q. That's the name?

[redacted]
A. Yeah. [redacted].

Nemeth
Q. He's a white guy?

[redacted]
A. White guy, thin white guy. Maybe about 6'. (inaudible)

Nemeth
Q. Okay.

Cornell
Q. What color hair did he have?

[redacted]
A. Blonde.

Nemeth
Q. His age? What was his age about? Younger guy or older guy?

[redacted]
A. Younger. I (inaudible)--

Nemeth
Q. --Okay. Do you remember his first name?

[redacted]
A. No. They called him--that's all they would call him--(inaudible) They teased him about it.

Nemeth
Q. Okay. All right.

Cornell
Q. They teased him?

[redacted]
A. Yeah. About his name, you know they did every time somebody called him (inaudible) He was a, on drugs, too. I was (inaudible) on drugs. All, we all was, all was takin' medicine. All 4400. Everybody (inaudible) was on medication...

Nemeth
Q. Medication of some kind?

[redacted]
A. Yeah.

Nemeth
Q. Okay.

[redacted]
A. (inaudible) I was taking Morphine and a, and

Nemeth
Q. Did you--were you asleep or, or do you know what you were doing when this incident happened?

[redacted]
A. Yeah. I was asleep and after--he didn't come back and I woke up. They didn't wake me up 'cause it's a (inaudible) when I had my heart attack. After I woke up, they told me that.

Nemeth
Q. Okay.

[redacted]
A. They said it is. They seen it 'cause he was down in the front of the cell (inaudible). It was (inaudible) near that shower (inaudible) one or two, you see.

Nemeth
Q. Did [redacted] tell you were he was when this happened?

[redacted]
A. He was in the cell. We all was in the cell.

Nemeth
Q. When they told you?

[redacted]
A. When they told me. We all was told.

Nemeth
Q. Did [redacted] tell you where he was when the incident happened that he was able to see it?

[redacted]
A. Oh, he was out.

Nemeth
Q. He was out?

[redacted]
A. Yeah. I think they had called him out for somethin'.

Nemeth
Q. Okay. So he was not in the cell, is that all you know?

[redacted]
A. No, he wasn't in it (inaudible)

Nemeth
Q. Did he tell you where he was when this incident occurred and, and, and the black inmate was beaten up, you said?

[redacted]
A. I think they had--he had (inaudible) they called him down for somethin'.

Nemeth
Q. Okay.

[redacted]
A. But this guy run out. That's why he got beat up.

Nemeth
Q. 'Cause he slipped out of the cell?

[redacted]
A. Yeah. When he, when he called this man, they opened the door and they locked it up. Then they (inaudible) 'cause he was always doing that.

Nemeth
Q. Right. He's always slippin' out when...

[redacted]
A. Yeah, when they, when they make the door open he run out.

Cornell
Q. Okay. Did you see him do that?

[redacted]
A. I seen him do that.

Cornell
Q. How many times do you think you saw him do that?

[redacted]
A. Every time they opened the door. (inaudible) to go down (inaudible).

Cornell
Q. But I mean, how many times do you think, five, ten, fifteen? How many times do you think he did that?

[redacted]
A. I figure about five or six times.

Cornell
Q. Five or six times?

[redacted]
A. Yeah.

Cornell
Q. The day that this incident happened, you were--you didn't see him do that though?

[redacted]
A. No I didn't see him that night because they call him. (Inaudible.)

Cornell
Q. But you were asleep and you didn't see any of it?

[redacted]
A. I didn't see any of it. I was told every word.

Nemeth
Q. Did you at some point after the event call this other inmate's wife for him or anything like that?

[redacted]
A. No. (inaudible.)

Nemeth
Q. What does this guy look like?

[redacted]
A. Oh, he was a young, young guy I guess he's in his 30's, early 30's.

Nemeth
Q. White or black? Black guy?

[redacted]
A. Black.

Nemeth
Q. Black guy?

[redacted]
A. No, he was black.

Nemeth
Q. Was he in your cell or another cell?

[redacted]
A. He was in another--my cell.

Nemeth
Q. He was in your cell?

[redacted]
A. Uh-huh.

Nemeth
Q. Would you remember his name if you heard it?

[redacted]
A. (inaudible)

Nemeth
Q. Okay.

[redacted]
A. 'Cause I just moved in that same night. Same cell.

Nemeth
Q. Right.

[redacted]
A. (inaudible)

Nemeth
Q. [redacted]. Does that sound familiar? That's the only other black person that was in your cell that night.

[redacted]
A. 'Cause he hadn't got to eat. (Inaudible.) I was on the floor. And I taken his place.

Nemeth
Q. Okay. So, does [redacted] strike a bell with you or not?

[redacted]
A. No.

Nemeth
Q. No?

[redacted]
A. If I see his picture I can tell you. (Inaudible.)

Nemeth
Q. But anyway, another black inmate from your cell called the, called the guys wife?

[redacted]
A. Yeah. 'Cause he, everybody know he called, he kept calling his wife all day long. Telling her to get him some medicine. Whatever he need he called his (inaudible), guess. Narcotics of some kind. He didn't say what (inaudible). But he told me he's on drugs, been on drugs. I think he said he lived up on 96th, in Com, Watts somewhere. 90 somethin', I think that's--

Nemeth
Q. Let me, let me ask you Mr. [redacted]. Did the inmates in the cell have a name that they called you? Did you have a nickname?

[redacted]
A. Yeah. They called me [redacted], 'cause I was old.

Nemeth
Q. They called you [redacted]?

[redacted]
A. [redacted].

Nemeth
Q. [redacted].

[redacted]
A. [redacted]. That's all they called me, [redacted].

Nemeth
Q. Okay. How old are you Mr.--can I ask you that?

[redacted]
A. Okay. I'm sixty-eight years old, but I haven't had a birthday since then.

Nemeth
Q. Okay.

[redacted]
A. I was 68 years old when I was in there.

Nemeth
Q. All right. Okay. All right. I guess our report should get--did we confirm the phone number ma'am? What is it?

Unknown female voice
A. [redacted].

Nemeth
Q. [redacted]. Okay.

[redacted]
A. (inaudible)

Nemeth
Q. All right. I don't have anything else for you.

Cornell
Q. Is there anything else about this incident that--

[redacted]
A. (inaudible) I didn't see anything, I didn't hear nothin'. But

I woke up, I woke, you know, I looked around and (inaudible) and this other guy told, he said, "I think he's dead." That's all he said.

Cornell
Q. And you never made any phone calls to anybody?

[redacted]
A. No I didn't make no calls.

Cornell
Q. Okay. 'Cause somebody told us that you made a phone call to this inmate's wife. But you didn't do that?

[redacted]
A. Uh-uh. I don't--didn't know the wife and I didn't know his phone number. The one guy had (inaudible) he's a black guy.

Nemeth
Q. Right.

[redacted]
A. (inaudible) He got mine and everybody's.

Nemeth
Q. He got everybody's phone number?

[redacted]
A. Yes. (inaudible.)

Nemeth
Q. Why?

[redacted]
A. I don't know why.

Nemeth
Q. He was just collecting phone numbers?

[redacted]
A. Yeah. If somethin' happens to you I might as well call 'cause I been here so long. 'Cause I told him I was, I was going to (inaudible) be moved. (inaudible) Now I might want you to pray for me 'cause I told him (inaudible) Somebody got to call. I think he, he called. Maybe he made a call for him. He made the call. I know that. That means (inaudible).

Nemeth
Q. Okay.

[redacted]
A. He made the call. Not me. He did that on his own.

Nemeth
Q. Okay.

[redacted]
A. He made the call.

Nemeth
Q. He, he had been there for a long while--

[redacted]
A. (inaudible) I guess (inaudible)

Nemeth
Q. You tried to be (inaudible)

[redacted]
A. Yeah. And he always got mine number but I never asked for nobody's number.

Nemeth
Q. Okay. Just for the record. I reviewed the jail inmate inventory list which shows that the date of this incident inmate [redacted] booking number [redacted] had a booking number that was quite a few digits lower compared to all of the other inmates that were in the [redacted] series or [redacted] series.

[redacted]
A. Yeah he--

Nemeth
Q. --He'd been there for quite a time, so perhaps it was him. Additionally, he's the only other black inmate in that cell besides yourself and besides [redacted] who is the guy that was injured.

[redacted]
A. Yeah. That's the only one.

Nemeth
Q. Okay.

[redacted]
A. One white guy.

Nemeth
Q. Is there anything you want to add in here then? (inaudible)

[redacted]
A. No. But you know what I want to ask.

Nemeth
Q. Yes sir.

[redacted]
A. Did he have any (inaudible) they told me he was beat up and they said he was all--

Nemeth
Q. Okay. I'll answer your questions off the record. But I mean is there any other information you want to provide us 'cause we're conducting this investigation now that you think might help us find out the truth of the matter?

[redacted]
A. No. I don't (inaudible). I don't know nothin' at all.

Nemeth
Q. All right. We'll end the tape at 1605.

END OF INTERVIEW

I/M [redacted]

I.C.I.B. INTERVIEW 12-7-94

WITNESS INTERVIEW

CASE NUMBER 494-00023-2300-444

[redacted]

Hamilton
Q. Okay, today's date is December 7, 1994. It's approximately 1:05, or 1305. We're here at Men's Central Jail in the 7000 Conference Room. We're gonna be discussing an incident that occurred October 27, 1994, at Men's Central Jail in Module 4400. We're here today to talk to [redacted]., booking number [redacted]. This case is being investigated under ICIB File Number 494-00023-2300-444. Present in the room is Sergeant Ron Bell, myself, Sergeant Eric Hamilton, both from ICIB. First of all, Mr. [redacted] were you housed in Module 4400 on October 27, 1994, at approximately midnight?

[redacted]
A. Yes, sir.

Hamilton
Q. Okay, did you have a chance to--oh, well, let me back up, were you involved in an incident with a deputy in that module at approximately tw-, tw-, 2400 hours?

[redacted]
A. Yes, sir.

Hamilton
Q. Okay, can you tell us what happened?

[redacted]
A. Okay, all of a sudden the deputy, he opens up the cell door. I was in Baker 4--

Bell
Q. --Why does he do that?

[redacted]

A. I don't know. It was late at night. He opened up the door so I thought, because I just came from Wayside I assumed he was gonna let me get my medication 'cause they had not given no--no--didn't give me Dilantin, cause I'm--have seizures. So I went up there and asked the deputy, I said, "Sir, do you have my medication?" He didn't say anything. At this time I walked back down the tier thinking he's gonna open up my cell door so I can go back in and at--my friend named [redacted] (inaudible) he's a white guy, he asked me could I get him some Sinequan, 'cause he couldn't sleep, so I said maybe I can, so I started roaming around, I got into...trying to get him one and at this time when I cam back, I'm looking in the cell and it's still closed. I look in the shower, he was in the shower--

Hamilton

Q. --Who's he?

[redacted]

A. That's one of the witness, he's white, his name is [redacted] and I can't--

Bell

Q. --This is the same [redacted], that wanted the [redacted]?

[redacted]

A. Yeah, the one that wanted Sinequan so he could go to sleep. So he said, "I'm cold in the shower." The deputy locked him up in the shower. I said, "Well, let me go to the cell and get you a blanket." Like I said, the door was closed so I just got my blanket off of the bed, pulled it out the bar, and gave it to my friend [redacted], my celly, he's in the same cell. So--so I goes back and I wave my hand. "Officer, cell number four. I want to go--I want to go back in." He didn't respond. He didn't say anything. So, I just started walking around. I said maybe if I walk around he'll see me and open up the cell so I can go back to sleep. This about--I'd say about a hour. I got the broom. I started sweeping. At this time he's standing on the stairs, say, "Come here, you." I said, "Oh, me?" I said, "You gonna let me back in the cell?" "Come here, asshole." So I went up there. I said, "Are you going for my medication?" "Get up and hit the fuckin' wall, asshole." I said, "Wait a minute sir. Look here, I don't want no problems, I'm already feeling dizzy like I'm gonna have a seizure." And by this time he's going to put his handcuffs

on and I got scared because I've been jumped on the first day I arrived here, when I first got arrested which was September--no, October the 27th--no August the 27th when I got arrested and so--

Bell
Q. --Who'd you get jumped on by?

[redacted]
A. What's the officer's name--?

Bell
Q. --Deputies?

[redacted]
A. It was two--two deputies.

Bell
Q. Two deputies.

[redacted]
A. But they didn't beat me all in my head, one grabbed me in the choke hold, the other hit me in the neck because one officer said, "This guy know karate, he kick his ass way high," and he had me strip down when you first get booked, took me down there to see the nurse about my medication 'cause they ask you if you're epileptic or seizure, so I was talking to the nurse and I said, "Oh--oh baby, let me--I takes Dilantin," I said, "baby," so--and then that's, you know, he grabbed me from the back. I was handcuffed (inaudible). I said "What's up officer?" "I don't like your fucking mouth." He grabbed me in a choke and the other one started hitting me in the stomach, oomp, oomp. "Got enough, got enough." I said, "What did I do, officer? Oh, I disrespect the nurse, I'm sorry." He said, "No, you haven't got enough." I was sitting on--on the bench, outside the clinic, first day I got arrested, then other one grabbed me and he started hitting in the stomach, boom, boom, and I faked like I had a seizure. "Oh, ain't nothing wrong with you, asshole, get up," and he took me up to 7100, well that was that. Okay, now, so I'm paranoid when he told me--right, on this--we're going back to when this officer called me from my cell--

Hamilton
Q. --You're talking about October 27.

[redacted]
A. October 27th now. So anyway, so he throwed me up against the wall, you--you know. I said, "Wait a minute officer, wait, just let me talk to you." He gonna put them cuffs on me and so I said, "Ahhh, this guy's gonna try to do something to me." You know, he grabbed me once before and so--

Bell
Q. --Same officer?

[redacted]
A. The--yeah--

Bell
Q. --You said he grabbed you once before?

[redacted]
A. That officer, yes he--yes, same one. When the--first day I got here, they hit me in the stomach.

Bell
Q. It's the same officer?

[redacted]
A. The same officer that was on duty, and I said, "What you trying to kill me or something," and he--and--and I'm--and we wrestled now. Now, I could have hurt this officer if I wanted to, but only thing I told him is, "Sir, come on, come on." I'm wrestling with him. "Sir, just let me back in my cell. I don't wanna have no problems. I'm already sick and everything." That's when he rammed me against the wall--against the board, and I grabbed his head. I had him in a headlock and at this time the (inaudible) I said, "Look it, sir, just let me go, sir, I don't want to hurt you." I let him, I had him in the back. I'm holding him now. I wasn't trying to hurt this officer, God knows, so I'm holding him back like this, you know (inaudible) I said, "Come on sir, just let me go in my cell." At this time, a whole lot of deputies come in there. There was so many I couldn't count and they (makes sound) they all rush me in. My celly, [redacted] he seen everything. So by this time they bop, bop, they was hitting me

with their fists, beat me, beat me, you know, one guy said they called me "nigger" but I didn't hear that so I said, "Wait a minute," I went down, I was holding the bars and they kept kicking me and just beating me and grabbing my neck, was choking me, and then they grabbed me and they handcuffed me, right? Now, I was handcuffed, they were still beating me and they got my head by--I have braids--and say one, two, three, on the floor, bam, bam, bam--

Hamilton
Q. So were you laying down at the time?

[redacted]
A. --I was laying down on my stomach--

Hamilton
Q. --Okay--

[redacted]
A. Yeah.

Bell
Q. What's--what's hitting the floor?

[redacted]
A. My head.

Bell
Q. Where on your head?

[redacted]
A. Right on the concrete--on the floor.

Bell
Q. Where--?

[redacted]
A. --Right here--

Hamilton
Q. --On your head?

[redacted]

A. Where, on my eye--

Bell

Q. I mean on the--

[redacted]

A. Right there on my eye--

Bell

Q. --side of your face where your eye was cut--

[redacted]

A. On the left--on the left side was--

Bell

Q. That's what's hitting the floor?

[redacted]

A. --had nine--had nine stitches in there and you can see the stitches been removed. And I heard them again, they--they all got me now, right. (Inaudible) and bam, bam, bam, I said, "Oh Lord," I said Dale--I mean, "[redacted]call my wife." I see they hit me, then they handcuffed me. I'm--I'm dazed like that. I'm bleeding. Then I felt--I didn't see the officers kick me now--I felt somebody pull my legs apart--these officers--'cause I seen them when they came in there, there was a whole lot of them--

Hamilton

Q. --But you didn't actually see--

[redacted]

A. --I didn't actually see who opened my legs and kicked me, I'm gonna tell, you they kicked me so many times I--I passed out, right. Just opened my leg and I felt bam, bam, bam, kick me, and I felt a hand down in my nuts grab me and just sm-, sm-, smashing on my and I said, "oh," I said, "Lord." At this time, I'm bleeding--I was swimming in my own blood--

Hamilton

Q. --Let me ask--let me ask you something and not meaning to interrupt--

[redacted]
A. --Okay.

Hamilton
Q. When--when the deputies were smashing your head, did you still have a hold of this deputy?

[redacted]
A. Did I have a hold of this deputy? No.

Hamilton
Q. When did you release him?

[redacted]
A. Oh, soon as--when I--I had him from behind and I was holding him, right?

Hamilton
Q. Right.

[redacted]
A. Soon as they came in the--in the module there was a whole lot of them, toot, toot, toot, toot, toot, toot, toot, and I seen them, I let him go. And at this time they just started beating me up, blam, blam, blam, I said, "Wait--wait a minute." I said, "Wait sir, don't kill me. I just wanna get my medicine, that's all." And they just started beating me (sounds)--

Hamilton
Q. --When you say beating you, 'cause once again you have to understand that we're on tape--

[redacted]
A. --Yes sir, the deputies--

Hamilton
Q. --No, that what you're doing won't show on the tape so you have to--

[redacted]
A. --Okay--

Hamilton
Q. --instead of this bam and--

[redacted]
A. --Oh, okay--

Hamilton
Q. --start to sound like--

[redacted]
A. --Right--

Hamilton
Q. --Batman--

[redacted]
A. --Okay, the officers--

Hamilton
Q. --Were they--

[redacted]
A. --they--

Hamilton
Q. --punching you--?

[redacted]
A. --they was punching me--

Hamilton
Q. --beating you, were they--

[redacted]
A. --they was--

Hamilton
Q. --spitting at you, what--what exactly--

[redacted]
A. --the officers was punching me with their fists, they was kicking me.

Hamilton
Q. All of them?

[redacted]
A. All--there was a whole lot of them. Yes sir, there was a lot of them.

Bell
Q. --You're still standing up at this time?

[redacted]
A. No, I was--I was laying down--I was on my stomach. I'm laying down like this here.

Hamilton
Q. When the fight started, you're on your stomach?

[redacted]
A. Yeah, 'cause they beat me down and I went down to the floor, I'm trying to cover up so they can't mess my face up and the officers, they was beating me with their fists. I felt one of them grab my neck and then squeeze it. And then they just grabbed my head. The officers grabbed my head. There were about two of them. I felt four hands back there, one had my nose. There's a scratch mark right there, one of them had me like this here, and two officers they said, "Ready, one, two, three." Officers, bam, bam, bam, I mean, in other words, they just hit my head on the concrete, you know, three times. Like they wanted all that blood to come out then the officers again, they counted, one, two, three, and they grabbed, and the officers bammed my head on the floor again three times and that's the (inaudible) I laid down my handcuff, then they got the handcuff. They handcuffed me in the back. After they handcuffed me in the back, they opened my legs. I couldn't see them 'cause I'm lying--I was lying on my stomach like this here. I was--and they opened my legs--that's when--I don't know which one kicked me--

Bell
Q. Okay, hold it, he was lying on his stomach--

[redacted]

A. --I was lying on my stomach--

Bell

Q. --left side of his face down on the floor.

[redacted]

A. Yeah, the left side of my face down on the floor, right here, and one of them put his neck on there--

Bell

Q. --Wait a minute he put his neck on your neck?

[redacted]

A. No, he put his--I mean he put his foot--the officer put his foot--when they had opened my--my legs, he--I felt a--a foot pu-, pushing my head down--

Bell

Q. (Inaudible) part of your neck--

[redacted]

A. --on the back part of my neck--

Bell

Q. --side of your face.

[redacted]

A. Yeah, on the neck--neck right there--just holding my neck down.

Hamilton

Q. Okay, was he on the side of you--?

[redacted]

A. (Inaudible)

Hamilton

Q. --in front of you, the rear of you--

[redacted]

A. --Well, this officer--

Hamilton

Q. --do you know--?

[redacted]

A. --was like on the side. He had his foot down like a do--

Hamilton

Q. --Which side?

[redacted]

A. He was on my right side.

Hamilton

Q. He was on the right side--

[redacted]

A. --Yeah--

Hamilton

Q. --he was flanking your right side?

[redacted]

A. Yeah, the officer, he just had a foot, while the other one had my legs open.

Hamilton

Q. Foot or knee or leg or--

[redacted]

A. --Was his foot.

Hamilton

Q. Foot, was he standing up or sitting down?

[redacted]

A. He was standing up 'cause I'm like this here. I couldn't see his face but I--that foot I felt. This officer's foot on the back of my neck and my neck holding him down--holding my head down. "Don't move, don't move." At this time, they get me handcuffed, right. Then the officers--I don't know which one it was--the

officers, they started kicking me in my left--they started kicking me in my--in my testicle, the nut as they say, and started kicking me a whole lot of times. I did not see these officers who kicked me 'cause, like I say, I was lying down and they kicked me and I felt one hand reach and grab my testicle, my nuts, and was like smashing them up and at this time, they put--they put handcuffs--the officers put handcuffs on my leg and they hog tied me. At this time, the sergeant and the senior came in there and I was so afraid to tell the truth to a--I just said, "Senior"--I know the senior--I used to work for him a long, long time ago. I said, "Officer senior, please, please, they jumped on me, they jumped on me, officer senior, and my--my cellies, they jumped on me, they beat me, please, please, I'll do extra,I'll put..." Hey, I said that story to cover it up so--else I knew--since--I figure if I told the ser-, the sergeant and the senior what really happened, I was afraid for my life, they might just kill me, so I just faked a story--

Bell

Q. How do you figure that?

[redacted]

A. I assume, you know, because if they all did it together, it had to be a setup, sir, because the way it happened. How come these two come in back--and they see me hogtied--if my cellies had a beat me, would've been blood in my cell. My celly's the one that called my wife. So they was probably in on it too--I just--I was just--I was paranoid--

Hamilton

Q. They who?

[redacted]

A. The officers--the--the sergeant and the sen--so I look and I seen--I said, "Here, thank you sen, take me, take me, help me, help me, senior."

Bell

Q. --But you tell them this before you know there's--you know there's anything.

[redacted]
A. Huh?

Hamilton
Q. You tell them that these crips are beating you before you know whether they're going to believe you or not.

[redacted]
A. Right.

Bell
Q. So how do you know--

[redacted]
A. Just a thought.

Bell
Q. --how do you know there's a big conspiracy, they've just got in there. How do you figure they're conspiring?

[redacted]
A. Well, sir, I was frightened. The only thing I wanted to do is make up a story to a sergeant and the senior so they can get me to a hospital, then I will tell the real, because I was paranoid and I was scared 'cause--'cause I heard the--the sergeant--and the sergeant said, "Shut up, asshole." This was the sergeant. So if I'd told him that, he might have been--they probably would have--the officers probably would have beat me some more. I was afraid. Only thing I wanted to do, sir, is for these officers to get me to the hospital. That's all I wanted, to get out of there, sir. I was afraid for my life. So he took me into the little clinic and he poured some water over my face and one officer took a picture of me, blood all over my face and everything. And then the officer said--he was--they were--they were happy with joy. The officer said when he was--when they was in the ambulance, "[redacted] the fifth one got you, huh. When you was--when you was in your cell, huh [redacted] I said, "Yeah, yeah, yes sir." So soon as I get to the hospital, my eye's still bleeding and everything, and then my doctor, the one that did the surgery on me at UCLA, right, General Hospital, he started examining me. He put his finger up my--my butt, to see if I was bleeding, and he starts--, starts feeling my--my nuts. I said, "Doctor, it's hurtin', it's killing

me." He said, "Well, I'm going to give you some x-rays 'cause there was pain there."

Bell

Q. --Is this the first doctor you saw over there?

[redacted]

A. Yeah, this is the first one, he's the--he's the surgeon--he's the one that did surgery.

Bell

Q. Did another doctor see you prior to that?

[redacted]

A. No, that's the only doctor that saw me. He's the only one, so he--then they took me to the x-ray room and they x-rayed up--up under my testicles and everything. He said one of them is fractured so he told the surgeon, he said one of them is fractured, the left one is fractured--

Bell

Q. --He told the surgeon?

[redacted]

A. No (Stuttering). I mean--I mean, the--one of the nurse, the x-ray--

Bell

Q. --The x-ray technician?

[redacted]

A. --X-ray technician. He told my--my--my doctor, the surgeon, the one that did the surgery that his left testicle is fractured. And so, my doctor, the surgeon, he said, "[redacted] Mr. [redacted] I'm going to try to repair it. If it's too bad, I'm going to have to remove it." He said--and he told me, "What happened?" I said, "The deputies kicked me so many times, I can't even count." He said, "Okay, well you have to go to surgery," and so then I said, "Doctor," so, I went to surgery right? This was the next morning, you know, before. I said, "Can I talk to my wife before I go to surgery 'cause I might not make it. So he said, "Okay," and I talked to my wife and she told me, "What is the--what's wrong with you--what is wrong with you, fighting the police, you're trying to

get yourself killed?" I said, "Baby, I was not fighting the police, I was trying to--I'm telling them, you know let me go to my cell. I don't want to hear what you're saying." She said, '[redacted], your friend, the white guy, he told me what happened, he seen everything. He said there was so much blood it scared him, thought you was dead." So after the surgery, the doctor told me, he said, "Mr. [redacted]your left testicle, your nut, it was smashed like a Jell-O. You been kicked a whole lot of times. So that's why I had to remove it." I said, "Thank you doctor, thank you very much, God bless you," and--and I looked at doctor and he said--just shook his head--he said, "That's--you've been kicked," he said--I said, doctor, "You give me some pain medicine?" I suffered the whole time I was in the hospital, in lot of pain, you know. So, another thing I want to tell you. If my cellies, now, you know, in my cell, there was two white guys, two Mexicans--okay, one Mexican, and two blacks, one old man, 60 years old, if they had a beaten me, there was blood, would they have to call my wife? Think about it, sir.

Hamilton

Q. Okay, we're not--we're not--

[redacted]

A. (Inaudible)

Hamilton

Q. --we're not discussing that right now--

[redacted]

A. Well, that's what happened.

Hamilton

Q. --what we're looking at is--is basically what happened with this incident--

[redacted]

A. --Right--

Hamilton

Q. --and--

[redacted]

A. --Okay--

Hamilton

Q. --we believe you at this point, you know, we're going on your word so we're just trying to figure out the facts at this point of what happened.

[redacted]

A. Uh-huh.

Hamilton

Q. We're not saying that the inmates beat you up.

[redacted]

A. Okay.

Hamilton

Q. But we know that you were obviously involved in a altercation with the deputies, that's documented, okay.

[redacted]

A. Uh-huh.

Hamilton

Q. And they have admitted to that, that's not a problem.

[redacted]

A. Okay.

Bell

Q. So they knew that--that night. Okay, so go ahead and tell us what, anything else happen?

[redacted]

A. Okay, so that was the end of that--okay, then once I was released from the hospital, there I was about seven days, they put me in a hole for ten days. Now, I asked one of the deputies, in 3500. I said, "Deputy, can I have my seizure medication?" I said, "I have seizures, I need my medication." The nurse came and gave me--I said I'm hurting, too--still hurting down in my left--she gave me some--the nurse gave me some Tylenol. I told the deputy, I said, "Sir, I don't know what you're all trying to do, I don't

supposed to be on no top bunk in the hole. I need my medication sir, it's on my record." The nurse said, "It's not on your-your chart." I said, "What you all trying to do, you want me to be in this cell by myself in the hole and have another seizure?" I said "Well, I'm gonna call--I'll get somebody to call my wife and--and have her to call this lawyer that's gonna represent my case and everything because why you think I had a seizure in Wayside? I had a seizure and been having problems ever since this incident--had a seizure at Long Beach County Jail. This is a result of no medication."

Bell
Q. --In the court?

[redacted]
A. In the court?

Bell
Q. Long Beach Court?

[redacted]
A. Long Beach--

Bell
Q. Oh, Long Beach County Jail.

[redacted]
A. Yeah, the county jail in Long Beach, you know the new one.

Hamilton
Q. (Inaudible)

[redacted]
A. No, I mean, it was not county, but the new facility it's on Imperial and Alameda--

Hamilton
Q. (Inaudible)

[redacted]
A. Central, that new jail--

Bell
Q. (Inaudible) the Justice Center?

[redacted]
A. Yeah, up right there.

Hamilton
Q. That's who arrested you, right? Century Station deputies?

[redacted]
A. No, a sheriff.

Hamilton
Q. Right, deputies.

[redacted]
A. Yeah, okay, yes sir, okay, deputy, yes sir, the deputies, they did, and--and then I had--another thing too, then I had a seizure as--as the results of them not giving my Dilantin, 'cause I have grand mal seizure and so then (inaudible) then I went to the hospital--

Hamilton
Q. Mr. [redacted] let--let me--

[redacted]
A. --Okay--

Hamilton
Q. Let me--let's get back to what we're here to talk about, okay, obviously, I am concerned about your medical condition--

[redacted]
A. --Okay--

Hamilton
Q. --but that's not what we--

[redacted]
A. --Okay, well that's what happened--

Hamilton
Q. --are here to discuss.

[redacted]
A. Okay.

Hamilton
Q. Let's get back to some things. First of all, what time did this incident occur?

[redacted]
A. Sir, it was--it was after 12, well, it had to be I'll say between 1 and 2 o'clock in the morning because when I got to the hospital it was about almost--almost 3 o'clock.

Hamilton
Q. Okay.

[redacted]
A. It was after midnight, definitely.

Hamilton
Q. Okay, you mentioned that this person, [redacted], was in the shower while you were left out in the row, correct?

[redacted]
A. The deputy had, he locked him up.

Hamilton
Q. Right. And how did, where did [redacted] come from? Did he come out of the cell with you, was he out?

[redacted]
A. He came out of the cell--he came out of the cell with me.

Hamilton
Q. Okay, when the gates opened, you both came out.

[redacted]
A. Yes, sir.

Hamilton
Q. And then the deputy had him go to the shower?

[redacted]
A. Yes, sir.

Hamilton
Q. Okay, where's the shower located?

[redacted]
A. The shower's right there deputy's--right on the floor, it's before--right at the end of Baker row was in the front of Baker row, the shower's right here and you can see right on the floor where I was--where I was beaten by officers and he was right here, he could see everything.

Hamilton
Q. Okay, if--if I walk in that module, where is Baker row? Is it just right or left?

[redacted]
A. It's to the right.

Hamilton
Q. Right upper or lower?

[redacted]
A. Lower.

Hamilton
Q. Okay, so when I walk down the stairs of Baker row, where is the shower?

[redacted]
A. The shower, soon as you walk down them stairs?

Hamilton
Q. Right.

[redacted]
A. The shower is on your right.

Hamilton
Q. Okay, so that's where [redacted] was located, correct?

[redacted]
A. Yes, sir.

Hamilton
Q. Okay, and then you happened to walk the row?

[redacted]
A. Right.

Hamilton
Q. You were on the row, left out there.

[redacted]
A. Yes, sir.

Hamilton
Q. Okay, what did [redacted] look like and--and do you know his last name?

[redacted]
A. As a matter of fact, my--my wife, she has his last name. She has all the information.

Hamilton
Q. But I'm asking you, do you?

[redacted]
A. I don't, I forgot his last name but my wife, [redacted] she has his--his booking number and all that.

Hamilton
Q. Okay, what does he look like?

[redacted]
A. Well, [redacted] my celly, he -

Hamilton
Q. --Yeah, he's your celly, yeah.

[redacted]
A. Yeah, he was my celly. Well, he's white and got black hair.

Hamilton
Q. Okay, have mustache, beard?

[redacted]
A. He had a little mu-, he had a little mustache.

Hamilton
Q. Okay, how tall is he?

[redacted]
A. [redacted] [redacted] was about--about my--about the same height I would say, about the same height.

Hamilton
Q. Which is what?

[redacted]
A. Oh, about 5, 11--

Hamilton
Q. ---Okay--

[redacted]
A. --5 foot, 11.

Hamilton
Q. How much does he weigh?

[redacted]
A. I would say [redacted] skinny, I would say he weighed about 140 to 50 pounds.

Bell
Q. That is skinny.

Hamilton
Q. He has any tattoos or anything?

[redacted]
A. I never looked at him good enough to see if he had tattoos, I didn't see any.

Hamilton
Q. Is he a drug addict?

[redacted]
A. [redacted]

Hamilton
Q. To your knowledge?

[redacted]
A. I don't know.

Hamilton
Q. Never talked about that?

[redacted]
A. No.

Bell
Q. Do you know what he's in for?

[redacted]
A. No, never talked about it, I had--I had just moved in that cell. He's always been real quiet.

Hamilton
Q. Okay.

[redacted]
A. He never talked about his case or nothing.

Hamilton
Q. Okay, you said that the deputy--you made contact with the deputy to ask him about your medication, you know, you were advising him that you needed medication--

[redacted]
A. --I just, when he opened the--the cell door--

Hamilton
Q. --Right--

[redacted]
A. --I just asked him, "Do you have my medication, sir?" He did not say--

Hamilton
Q. --Right--

[redacted]
A. --He did not say--

Hamilton
Q. --Okay, I understand that. Okay. My question is where was the deputy when you asked him that? Was he in the booth, was he out in the sally port, where was he?

[redacted]
A. Out in the sally port, right there--

Hamilton
Q. --So he was outside of the--the--the--

[redacted]
A. --The booth--

Hamilton
Q. --the booth itself.

[redacted]
A. Yes, sir.

Hamilton
Q. So he was just standing--where was he?

[redacted]
A. He was just standing right there.

Hamilton
Q. Right where?

[redacted]
A. He was--I can't tell the trusties what to do, how to clean up something. He made them--oh, as a matter of fact, I forgot to say this, he made them go downstairs, the trusties.

Hamilton
Q. Okay, we'll--we'll talk about that in a second.

[redacted]
A. Oh, so he was right there.

Hamilton
Q. Where--where is right there, is he in front of the row gate?

[redacted]
A. (Inaudible) well, well sir--well, he was--sir, he was--he, as a matter of fact, he was in front of the tier, before you go down.

Hamilton
Q. So he's right in front of the row gate?

[redacted]
A. Yes sir, right there.

Hamilton
Q. In front of what row gate?

[redacted]
A. In front of Baker's row gate.

Hamilton
Q. Baker's in front of you so--

[redacted]
A. --Yes--

Hamilton
Q. --right in your row, right?

[redacted]
A. In my row, yes sir.

Hamilton
Q. Was there anybody in the booth?

[redacted]
A. Not that I know of, I didn't see anybody.

Hamilton
Q. You didn't see any deputies or anyone else, civilians or anybody in there?

[redacted]
A. No.

Hamilton
Q. Okay, and then you walked up and you asked him about your medication--or you advised him that you needed medication, correct?

[redacted]
A. Yeah, I told him didn't have my medication.

Hamilton
Q. Okay, do you know what that deputy looked like?

[redacted]
A. Yes, I do.

Hamilton
Q. Was he a deputy, first of all?

[redacted]
A. Yes, he was a deputy, yes sir.

Hamilton
Q. Versus a custody assistant or something like that.

[redacted]
A. A custody assistant?

Hamilton
Q. Right, they wear a green uniform.

[redacted]
A. He wears the beige--beige (inaudible)

Hamilton
Q. Okay.

[redacted]
A. Beige khakis uniform.

Hamilton
Q. Do you know who--who that was?

[redacted]
A. His name was--started with a K--Kross, Kross, Kross or something.

Hamilton
Q. How do you know it started with a K?

[redacted]
A. 'Cause I looked at his--his name.

Hamilton
Q. Okay.

[redacted]
A. When he--

Hamilton
Q. --When did--

[redacted]
A. --When he told me to come here, asshole.

Hamilton
Q. Okay.

[redacted]
A. When he called me, sir.

Hamilton
Q. What did he look like?

[redacted]
A. He had black hair and he's white and had black hair and a mustache.

Hamilton
Q. Okay, what kind of hairstyle?

[redacted]
A. Oh--

Hamilton
Q. --Straight?

[redacted]
A. --straight--straight. It's a regular hairstyle, like his.

Hamilton
Q. Which is what--

[redacted]
A. --Like a--

Hamilton
Q. --Combed back, up, down?

[redacted]
A. Yeah, but, like, back.

Hamilton
Q. Combed straight back?

Bell
A. Yeah.

Bell
Q. Or pretty much straight back?

[redacted]
A. Yeah.

Hamilton
Q. Okay, what color was it?

[redacted]
A. Black.

Hamilton
Q. Black hair.

[redacted]
A. Yeah.

Hamilton
Q. And just combed back. Was it a flat top or was it--

[redacted]
A. --I think it's--

Hamilton
Q. --like a Pat Reilly--

[redacted]
A. (Inaudible)

Hamilton
Q. --was it--?

[redacted]
A. I know his face, you know, but--it was cut kind of low, you know, and not a cut, you know. I'll know him personally if I see him.

Hamilton
Q. Okay.

[redacted]
A. I'll know his--I'll know his face. That's all, a face and a name.

Hamilton
Q. Okay, and how tall was he?

[redacted]
A. I would say about 5 foot 10 and a half.

Hamilton
Q. Okay, and how much--

[redacted]
A. (Inaudible)

Hamilton
Q. --would you say he weighed?

[redacted]
A. I would have to say he weighed about 165 pounds.

Hamilton
Q. Did you--meant to say if he had any glasses or mustache or anything?

[redacted]
A. No glasses.

Hamilton
Q. Clean shaven or mustache, beard--?

[redacted]
A. He had a mustache.

Hamilton
Q. Okay.

[redacted]
A. This officer, deputy.

Hamilton
Q. Have you ever seen him before?

[redacted]
A. Yes.

Hamilton
Q. Prior to that incident?

[redacted]
A. Yes.

Hamilton
Q. Where'd you see him?

[redacted]
A. He was the one that--that grabbed me and was choking me out, when I first came in, this deputy, him--him and his--his partner.

Bell
Q. And that was down in the clinic.

[redacted]
A. Down in the clinic.

Bell
Q. So that's, is that the first day you were arrested?

[redacted]
A. The first day I was arrested, he grabbed me.

Bell
Q. And so you were brought to Central Jail the first day you were arrested?

[redacted]
A. Yeah, I mean the first day, yes sir, I was ar-, you know, I was arrested, got booked and everything, and took me down by the clinic and him partner and his partner--

Bell
Q. --Where were you booked?

[redacted]
A. I was booked at Central Station.

Bell
Q. Okay, Century Station.

[redacted]
A. Central, C.J., here.

Bell
Q. You were booked into Central Jail.

[redacted]
A. Yeah, Central Jail.

Bell
Q. You weren't booked out of Century Station?

[redacted]
A. Oh, I mean, yes, Century, yes, Century. That's where I got fingerprinted, yeah.

Bell
Q. How long did it take you to get brought down to here? Were you out there for a day or two?

[redacted]
A. Oh no, as a matter of fact, the same day. It didn't take no time. They booked me, thats's right.

Bell
Q. So you got booked out there and--

[redacted]
A. --And they--

Bell
Q. --a couple hours later, you got put on the bus and you came down here.

[redacted]
A. Yes, sir.

Bell
Q. So that same day you came down here?

[redacted]
A. Uh-huh.

Bell
Q. So that same day in the clinic, these deputies assaulted you?

[redacted]
A. The same one, him and this other one with blonde hair.

Hamilton
Q. Okay, you get a chance to talk to a sergeant on that day?

[redacted]
A. No.

Hamilton
Q. Okay, and this occurred in front of the medical staff?

[redacted]
A. No, yes. The medical staff was there.

Hamilton
Q. Okay, so where did this actually occur, in the clinic--?

[redacted]
A. --Okay, in--

Hamilton
Q. --or outside the clinic?

[redacted]
A. In the clinic, when he--when he--he--in the clinic, this deputy grabbed--grabbed me by the back of my pants--

Hamilton
Q. --Okay--

[redacted]
A. --and before we got out the door, he pushed me down, so every nurse in that clinic seen it.

Hamilton
Q. Do you know what time that happened?

[redacted]
A. Oh, I--I have to say between 7 and 8 o'clock.

Hamilton
Q. In the morning or evening?

[redacted]
A. In the evening.

Hamilton
Q. Okay.

[redacted]
A. In the evening.

Bell
Q. And you didn't do anything?

[redacted]
A. I didn't do nothing, sir. "I don't like your mouth," he told me.

Bell
Q. Except call this nurse, "babe."

[redacted]
A. Yeah, I said "baby," I said, "Well, baby," you know--and that's what--that's why he said (inaudible) I said, "Wait a minute, sir, I'm finished?" "Yes, I don't like your fucking mouth," and I had the handcuffs around like this here, the chain, and before we get off the (inaudible) he threw me down, then he picked me up and grabbed around my neck and the other one hit me in my stomach,

ugh. He said, "You got enough?" The deputy--the deputy just punched me in my stomach, upper cut in my stomach.

Hamilton
Q. Okay.

[redacted]
A. This deputy went and they took turns, then he took me out the clinic on the bench and then grabbed me--

Bell
Q. --Out in the hallway?

[redacted]
A. In the hallway, right there in the hallway, and then choked me like this here.

Bell
Q. So, they do all this because you called a nurse, "baby?"

[redacted]
A. Yeah, I said, "baby." I said--I was sitting down and say, "Oh, I understand sir, I didn't mean to call her a 'baby' with disrespect." "Looked at me," he said, "Get up." This is the second time, then the other one grabbed me, started choking me and I fell down on the floor.

Bell
Q. Okay, have you been in any other assaults in this jail besides the two you talked about (background noise) since you've been here this one time?

[redacted]
A. Not at this jail, but Wayside.

Hamilton
Q. We're talking about with deputies or inmates---

[redacted]
A. --Oh, no, no, no--

Hamilton
Q. --with inmates?

[redacted]
A. No, no more assaults from the deputy.

Bell
Q. How about other inmates, how many fights you been in--

[redacted]
A. --Inmates--?

Hamilton
Q. --with other inmates?

[redacted]
A. One in Wayside (inaudible)

Bell
Q. The one at Wayside, where you got punched in the lip?

[redacted]
A. Yeah.

Bell
Q. What was that all about?

[redacted]
A. Said I was a snitch.

Hamilton
Q. Okay, said you were a snitch and he punched you in the mouth.

[redacted]
A. Yeah, and we started fighting.

Hamilton
Q. Okay, how many times you been--

[redacted]
A. And then--

Bell
Q. --in jail?

[redacted]
A. How many times? I would say about three times.

Bell
Q. About three times?

[redacted]
A. Yeah, three times. Let me see, one, two, yeah, three.

Bell
Q. How many times you been in prison?

[redacted]
A. Three.

Bell
Q. Every time you came to jail, you went to--

[redacted]
A. --No, all time was five, 'cause I got I got two violations, two violations.

Bell
Q. Okay, and you ever beaten in prison?

[redacted]
A. No, no sir.

Hamilton
Q. You ever have any altercations with staff in prison?

[redacted]
A. No, sir--oh, wait a minute--wait a minute, oh--I--I, they send me to the hole, that's right, at Chuckawalla Prison.

Hamilton
Q. Okay.

[redacted]

A. They--this officer, this deputy that he had--it was--had me ready for inspection so I asked this officer, I said, "Ma'am," I said, "Sir, can I get some water cause it's real hot and I have a seizure, I got to cool--cool off, deputy." And he said, "Okay," and I was coming out and then a female deputy, she says, "What are you doing out of your cubicle?" I said, "Deputy said I could get me some water 'cause you know I have seizure, I--I get hot." She says, "Come here, get up against the wall." Then this other one, her and this other one grabbed me and tried to break my hand, "Get up against the wall." I said, "Wait a minute, you gonna break my hand like this." I told him, "Sir," stopped and pushed me, then a whole lot came in and grabbed me, threw me down, put them cuffs on me and took me to the hole, that's--that's--so--and they wrote me up assault on a officer. How am I gonna have an assault when I'm handcuffed?

Hamilton
Q. What prison is this?

[redacted]

A. This was at Chuckawalla.

Bell
Q. Chukcawalla.

Hamilton
Q. Okay.

[redacted]

A. Chuckawalla.

Hamilton
Q. What other prisons have you been in?

[redacted]

A. I've been to Folsom, Pelican Bay.

Hamilton
Q. Why? Why Pelican Bay?

[redacted]

A. Why Pelican Bay?

Hamilton

Q. Yeah.

[redacted]

A. Okay, Pelican Bay because--since I'm not gang affiliated--they was getting ready to have a war with the Spanish and the whites and I didn't participate 'cause see I'm not a gangbanger and so they told me, these gangbanger brother crips, "You're not gonna help us?" I said, "No, because my grandmother's white and I got relatives that's Spanish." I'll have nothing to do with that. I'm not prejudice." He said, "Alright, we'll get you." I said, "Well come on, come on, I don't care, I'm not fighting nobody." And so they, you know, and--and then one guy he messed around and stole on me and I beat the mess out of him." I went to the hole and when I got out--

Bell

Q. --Where was that at?

[redacted]

A. At Chuckawalla--

Bell

Q. You were in the hole twice at Chuckawalla?

[redacted]

A. Yes, this is second time, for assault on an inmate. He hit me first, but they lied and said I hit him first, him and his homeboys. So, I goes to the hole. As soon as I get out the hole, his homeboys want to jump on me--

Hamilton

Q. --And what happened--?

[redacted]

A. --and I fight him, I hit him again, I just fight. 'Cause even the officer--deputy said, "[redacted] what you doing, doing pushups; what you gonna do when you get out the hole?" "I'm gonna handle my business, if they hit me, I'm gonna get them for hitting back--I'm fighting back."

Hamilton
Q. (Inaudible)

[redacted]
A. --I don't have to be, you know, affiliated.

Hamilton
Q. When you got out of the hole, you said that his homeboys wanted to fight you. How many did you have to fight?

[redacted]
A. There was about--about six of them. So what--what happened I just get one of the partners that I knew, that I was raised with, he's a gangbanger, I say man check this out. These guys want to jump on me. "Just watch my back, I'm gonna fight one of them." And my points kept going--getting higher and higher for assault on an inmate and so we went head up and I whooped him and my points kept going up and up, they sent me back to the hole. I said, "You all gonna release me from the hole on the main line."

Bell
Q. (Inaudible) points going up?

[redacted]
A. (Inaudible) in other words, your--

Hamilton
Q. --Every fight that you--

[redacted]
A. If you fight, you know, any--any altercation, you know--

Bell
Q. --Okay--

[redacted]
A. --with inmates because you might have like 10, 15 points level one, when you get over 40 points you're level four.

Bell
Q. What happens when you're level four?

[redacted]
A. You go to a level four institution.

Hamilton
Q. So you go to Pelican Bay.

[redacted]
A. They told me, "No, you're not going back, you got too many assaults on inmates." I said, "Well, I'm only defending myself." "You're going to Pelican Bay."

Hamilton
Q. What happened when you were confronted with these--these gang members, you know, this guy's buddies and stuff, did you send anybody to the hospital?

[redacted]
A. No.

Hamilton
Q. Did you have to go to the hospital?

[redacted]
A. Uh-uh.

Hamilton
Q. Okay, did (inaudible)

[redacted]
A. I just kicked him in the--

Hamilton
Q. Did they have to go to the clinic?

[redacted]
A. No.

Hamilton
Q. Did they have to go to the clinic?

[redacted]
A. I just knocked him out.

Hamilton
Q. Well, you said there was a lot of them--

[redacted]
A. No--

Hamilton
Q. --I'm talking about when you got out of the hole.

[redacted]
A. --see with this one--okay. When I got out the hole. See what I did, they wanted--all of 'em wanted to jump on me so I went and got a friend--a buddy of mine with me to watch my back and me and him went head up. So, I got friends watching my back.

Bell
Q. Okay, so you were in the hole again?

[redacted]
A. Uh-huh, 'cause I knocked him out.

Bell
Q. So, this was your third time in the hole?

[redacted]
A. Yeah, 'cause I knocked him out.

Bell
Q. How many times did you go in the hole?

[redacted]
A. Oooh, Chuckawalla, I've been in the hole four times.

Bell
Q. For what, all for fighting--?

[redacted]

A. --One for disrespect to officer, and he said I stoled a tray you know I got back in line which I did and--but this other officer said, "I seen it." I said, "You didn't see nothing." "Oh--oh, so you gonna curse me." I said, "Oh man, now you want to send me to the hole?" You're going to the hole." They says I got--they said I assaulted this female officer. They just, anything I do, they'd send me to the hole.

Hamilton

Q. And that was at that one prison?

[redacted]

A. Yeah, at this one particular prison, Chuckawalla.

Hamilton

Q. How about at Folsom or Pelican Bay?

[redacted]

A. Oh, Folsom, no problem.

Hamilton

Q. Pelican Bay?

[redacted]

A. No problem 'cause I was in the hole.

Hamilton

Q. That entire time?

Bell

Q. At Pelican Bay you were in the hole.

[redacted]

A. I paroled from the hole at Pelican Bay--

Hamilton

Q. Why were you in the hole at Pelican Bay?

[redacted]

A. For fighting there at Chuckawalla, they say I'm dangerous so I stayed in the hole.

Hamilton
Q. Let me ask you, when you got out on parole or wherever--whenever you were out in the streets, how many fights were you involved in--in the neighborhood or--?

[redacted]
A. --Oh, neighborhood?--

Hamilton
Q. Or job or whatever?

[redacted]
A. Oh, none. I can get along good out in the streets 'cause you see I'm a family man, a lot of guys know me, you know.

Hamilton
Q. No problems on the job, so if we go talk to your--

[redacted]
A. --My boss?--

Hamilton
Q. --previous employers--

[redacted]
A. --Oh, no problem--

Hamilton
Q. --not just your current employer that you work in or you work, we're talking about the past employers as well. Are they gonna tell us that you've been involved in any altercations on the job?

[redacted]
A. No, I used to be a security guard. A federal security officer.

Hamilton
Q. Okay, doesn't mean that you can't get involved in fights.

[redacted]
A. What--what--no, I didn't get involved in no kinda fights, always have been a good working man. You know, as a matter of fact, they wanted me to go--what they call it--a little academy for

sheriff and everything, but me--my cousin, had to put him out of my house, he got my gun, 'cause you know when you go to California Security Training School, right?

Hamilton
Q. Uh-huh.

[redacted]
A. You're licensed to carry a .38 and .357. My cousin messed around and got mad at his--at his girlfriend, he was staying with me, and he shot at her. You know, he didn't try to shoot her, he just shot my gun, so they came over there. That's how I lost this--this particular job, not this federal security guard. Lost the job and everything, behind him shooting my gun. The police came to my home--

Hamilton
Q. --Okay--

[redacted]
A. I said you know, so--

Hamilton
Q. --Let me--let me--let me get back on this real quick. You were saying, going back to the module incident, you were saying that the deputy finally asked you to come off the row, correct?

[redacted]
A. Yes, sir.

Hamilton
Q. --come up to him, was he standing at the row gate or was he in the booth when he asked you to step off--

[redacted]
A. --Standing at the row gate--standing like this here.

Hamilton
Q. Okay, was the booth door open or closed?

[redacted]
A. It was open, yeah, as a matter of fact--

Hamilton
Q. --Are you sure or you don't know?

[redacted]
A. Yeah, it was open, I'm sure because--'cause the trusty was putting up some bunks or something and he told the trusty to go back to his cell and there was one trusty there. Told him to back to his cell. It was open, and so--

Hamilton
Q. --Okay, and then when you came off the row gate, the deputy was standing right there, correct?

[redacted]
A. Yes, sir.

Hamilton
Q. Okay, where did he direct you to go?

[redacted]
A. He told me, "Come here, asshole, get up against the wall."

Hamilton
Q. Okay, what wall was he referring to?

[redacted]
A. This wall was right on the main floor before you go downstairs, you know, when you first open the door, right there.

Hamilton
Q. Wait a minute, there's a lot of doors, let's--

[redacted]
A. --Okay, okay, the--

Hamilton
Q. --let's back up a little bit.

[redacted]
A. Okay--

Hamilton
Q. --Now--

[redacted]
A. --I'll show you where it is--

Hamilton
Q. --if you're coming off the row gate--when you come off the row right, you're facing the deputy, correct?

[redacted]
A. Right, yes sir.

Hamilton
Q. He's standing in front looking down the row, you're coming up towards him looking towards the wall which is, I believe, what is that, south, the south wall?

[redacted]
A. Yes, sir.

Hamilton
Q. Okay, so you're looking at him, he's looking down the row, correct?

[redacted]
A. Right.

Hamilton
Q. At you.

[redacted]
A. Uh-huh.

Hamilton
Q. You come off the row. Where does he direct you to go, does he direct you to go--

[redacted]
A. --Right, report on this side where the A--where the A--

Hamilton
Q. --What is this side?

[redacted]
A. On this side, okay, you got four--four rows, right? You have B and D, A and C on this side. He had me go over there by the bars on this side, not in front of the doors.

Hamilton
Q. Understand we're on tape, so did he tell you to go in front of the other row gate?

[redacted]
A. Yes, sir.

Hamilton
Q. Or in front of your own?

[redacted]
A. No, on the other--on the other gate.

Hamilton
Q. So that's in front of, what is it?

[redacted]
A. That's in front of A and C.

Hamilton
Q. Okay.

[redacted]
A. A and C.

Hamilton
Q. Did he ask you to face the wall or the bars?

[redacted]
A. The wall.

Hamilton
Q. Okay, which is across from or adjacent to the row gate, correct?

[redacted]
A. Yes, sir.

Hamilton
Q. All right, so the wall, the solid wall--

[redacted]
A. --The solid wall--

Hamilton
Q. --He asked you to face it. Did you walk over there?

[redacted]
A. I walked over there.

Hamilton
Q. Was he behind you or in front of you?

[redacted]
A. He was behind me.

Hamilton
Q. Or on the side of you?

[redacted]
A. He was behind me, the officer, this officer was behind me.

Hamilton
Q. Okay, so you walked over there and then what happened?

[redacted]
A. Then he pushed me against the wall like that and I think I said, "Wait a minute, sir." He said, "Get up against the fucking wall."

Hamilton
Q. Okay.

[redacted]

A. I said, "What--what you doing?" When I heard them handcuff, I just--I got paranoid--

Hamilton

Q. --Okay--

[redacted]

A. --And I just sensed something was not right. He made everybody leave and then, I said wait a minute, and then we started wr-, I said wait a minute, you know, then he grabbed me like that, you know, and tried to hit me, and I grabbed him, we was wrestling, just me and this deputy.

Hamilton

Q. Okay, hold on--

[redacted]

A. --Uh-huh--

Hamilton

Q. --Let's just take this a step at a time.

[redacted]

A. Okay.

Hamilton

Q. Okay, he pushed you against the wall. Correct?

[redacted]

A. Uh-huh.

Hamilton

Q. And did you turn around?

[redacted]

A. Yes sir, I did.

Hamilton

Q. Okay, and then are you saying that he grabbed you--

[redacted]
A. --Yes, he did--

Hamilton
Q. --or what happened?

[redacted]
A. He grabbed me.

Hamilton
Q. Where?

[redacted]
A. He grabbed my arm like this here.

Hamilton
Q. What arm?

[redacted]
A. He grabbed my left arm like he wanted to handcuff me.

Hamilton
Q. But were you--was he in front of you or behind you at the that point?

[redacted]
A. He was in front of me, he grabbed me like this here, you know, you know, and like he's gonna try to get the cuffs on me, you know, he grabbed my arm like this here and like he's gonna, you know, he grabbed my arm but by this time, I said--I said, "No, no, sir."

Bell
Q. He was trying to twist your arm behind your back.

[redacted]
A. He was trying to twist my arm, you know, the guy is gonna turn around like that. I said, "Wait a minute, sir." Then he tried to twist this arm. I said, "Uh-uh." I know what his intention was then.

Hamilton
Q. Okay, let me--let me just get a clear understanding of what you're saying.

[redacted]
A. Uh-huh.

Hamilton
Q. You're saying he pushed you up against the wall and that you turned around, correct?

[redacted]
A. Yes, sir.

Hamilton
Q. To face him.

[redacted]
A. To face him.

Hamilton
Q. And then he grabbed your left arm.

[redacted]
A. Uh-huh.

Hamilton
Q. Now, he--he's trying to twist it behind your back?

[redacted]
A. He grabbed my arm--

Hamilton
Q. ...while you face him?

[redacted]
A. See, this is what he did. He grabbed my left arm like he was--he tried to turn my body around, you--you, like, you know, so he could get my arm like this and put the cuffs on me--

Hamilton
Q. --So he pushed you--

[redacted]
A. --Yeah, he had this left arm, right?

Hamilton
Q. Right.

[redacted]
A. Turn it like this here and twist my arm--

Hamilton
Q. --Okay--

[redacted]
A. --Okay, he got like my shoulder, right. "Turn around."

Hamilton
Q. He tried to--

[redacted]
A. Fucking asshole.

Hamilton
Q. --turn you back around--

[redacted]
A. --Yes, sir--

Hamilton
Q. --correct, so you could be facing the wall while he maintained his grip on your left arm, correct?

[redacted]
A. Yes, sir.

Hamilton
Q. And he was trying to bring your hand behind your back?

[redacted]
A. Yes, sir.

Hamilton
Q. Okay, and then what happened?

[redacted]
A. I then left, I turned around.

Hamilton
Q. And what does that mean?

[redacted]
A. I broke loose from that--from that--when he tried to get my hand like that, I said "No, no, no."

Hamilton
Q. Okay--

[redacted]
A. "You're not gonna--

Hamilton
Q. --then what'd you do?--

[redacted]
A. --You're not gonna kill me." That's when we--I did like that--I pushed his hand and we start--and he kept on--and we started wrestling.

Hamilton
Q. Okay, did he grab you and you grabbed him--

[redacted]
A. He grabbed me and we was--

Hamilton
Q. (Inaudible) he grab you?

[redacted]
A. Okay, once he couldn't--once this officer could not put my hands behind his back, you see I'm, he knew I--this officer knew I was not going to let him--

Hamilton
Q. --Right, I understand that--

[redacted]
A. --right, so at this time, I just--I said, "No, no, no." I said, "Forget it." I said--

Hamilton
Q. --Okay--

[redacted]
A. Excuse me, sir.

Hamilton
Q. --I understand that, what did you do?

[redacted]
A. What did I do?

Hamilton
Q. Right.

[redacted]
A. I grabbed him.

Hamilton
Q. Where did you grab him?

[redacted]
A. I grabbed him like this here and we was tusslin.'

Hamilton
Q. Mr. [redacted]--

[redacted]
A. --Yes, sir--

Hamilton
Q. --we're on tape--

[redacted]
A. --okay--

Hamilton
Q. --relax, we have nothing but time.

[redacted]
A. Okay.

Hamilton
Q. Where did you grab him, how did you grab him, did you--your right hand grab his right or what.

[redacted]
A. Okay, sir, my right hand, I grabbed his right arm and his left, I grabbed him like this here, 'cause he--

Hamilton
Q. --Okay--

[redacted]
A. (Inaudible)

Bell
Q. This here, that's where we're gonna have problems.

[redacted]
A. In other words, sir, I grabbed--I grabbed his right hand, right arm and his left arm, right?

Hamilton
Q. Upper arm?

[redacted]
A. No, just right up--

Hamilton
Q. --Forearm--

[redacted]
A. --forearm, I grabbed like this here--

Hamilton
Q. --Okay, so was he--

[redacted]
A. --so by the time--

Hamilton
Q. --Okay, go ahead.

[redacted]
A. --and, and this time then he turned me around--

Hamilton
Q. --Okay--

[redacted]
A. --this officer turned me around, you know, like he was going to throw me on the floor.

Bell
Q. Did he grab you, too?

[redacted]
A. Yeah, he grabbed me.

Bell
Q. So you both had each other's forearms?

[redacted]
A. Yeah, we both--we both, like, me and this other officer, we was wrestling, he was trying to get me to turn around, like he tried to throw me on the ground, this officer.

Hamilton
Q. Uh-huh.

[redacted]
A. But he couldn't do it.

Hamilton
Q. Okay.

[redacted]

A. And so he pushed me up against--and then he pushed me up to--he butted my head like--he--he got his head and butted his head right in my chest and up against that wall on Baker, on the front of the Baker section, right.

Hamilton

Q. Okay, let--let me just back up again. You're saying that you started over there in front of--

[redacted]

A. --On the other side--

Hamilton

Q. --the A and C row and you guys were struggling and you worked your way back over in front of the B gate, B row.

[redacted]

A. B, B row, yes sir.

Hamilton

Q. Okay, are you sure that you grabbed his right hand, was he facing you or away from you?

[redacted]

A. He was facing me.

Hamilton

Q. So you grabbed his right arm--?

[redacted]

A. --I grabbed--

Hamilton

Q. --your right hand grabbed his--

[redacted]

A. --my right arm grabbed his (inaudible) right arm and then--and then I grabbed his with my left arm because he--looked like he was gonna try to get that spray--

Hamilton
Q. --Okay--

[redacted]
A. --Pepper somethin.'

Hamilton
Q. And--

[redacted]
A. --I wasn't gonna let him use nothing--

Hamilton
Q. --and he grabbed the same arm, correct? He grabbed your right--

[redacted]
A. --Right--

Hamilton
Q. (Inaudible) right and then--

[redacted]
A. --Right--

Hamilton
Q. --Well, let me just say this, just, if--if that happened, then that means that your arm would have been in this configuration, is that what you're saying happened?

[redacted]
A. Yeah.

Hamilton
Q. Because if he's face--is that how you had your arms, crossed like that--

[redacted]
A. --Uh-huh--

Hamilton
Q. --in front of his versus like this?

[redacted]
A. Yeah, like this here.

Hamilton
Q. You weren't meaning right to left.

[redacted]
A. Right.

Hamilton
Q. Do you understand what I'm saying? If he was facing you, his--his right would actually be to your left.

[redacted]
A. Uh-huh.

Hamilton
Q. You understand?

[redacted]
A. Yes, sir.

Hamilton
Q. If you--if your--if I--you were facing me right now, your right arm would be over here--

[redacted]
A. Yes, yes sir--

Hamilton
Q. --which is my left side.

[redacted]
A. Uh-huh, yes sir.

Hamilton
Q. So are you saying that you crossed your hands and grabbed him this way--

[redacted]
A. --No--

Hamilton
Q. --or did you--

[redacted]
A. --I didn't cross my hands, sir, I had both of my hands. See, my intention was to not let him get that salt, pepper salt, sir, and spray me. I knew his--what his intention was.

Hamilton
Q. Okay.

[redacted]
A. Is to try to kill me. I--I sensed that.

Hamilton
Q. Okay, what I'm trying to determine is how did you grab him and how did he grab you. Is it right on right or is it right to left?

[redacted]
A. No, okay, it's like--okay, when I had both his hands, my--my right hand on his right--on his l-, okay, my right hand on his left arm--forearm--and my other hand on this arm and we was like, and he grabbed me like this here, he--

Hamilton
Q. --Okay--

[redacted]
A. --and we was more or less just tussling.

Hamilton
Q. Okay, so what you had is you grabbed your right hand--

[redacted]
A. --Uh-huh--

Hamilton
Q. --grabbed his left hand or forearm--

[redacted]
A. --Right--

Hamilton
Q. --and your left--

[redacted]
A. --and I grabbed his--

Hamilton
Q. --hand grabbed his l-

[redacted]
A. --right--

Hamilton
Q. --right forearm and vice versa, he did it--

(Side A of Tape 1 ends at this point.)

[redacted]
A. --on the other side.

Hamilton
Q. Then what happened?

[redacted]
A. Okay, okay, and like I said, this officer, he got, okay, once we was holding to each other--

Hamilton
Q. --Right--

[redacted]
A. --He--he couldn't throw me down--

Hamilton
Q. --Right--

[redacted]
A. --So what he did, he rammed his head--this officer rammed his head against my stomach and we hit that bar on Baker row, that's

where we started wrestling and then we--when he--okay, as he--when he did like that to me--

Hamilton
Q. --Right--

[redacted]
A. --that's when I (inaudible), I got loose from him and I grabbed him in like a headlock--

Hamilton
Q. --Right--

[redacted]
A. --and said, "Sir, I'm not gonna let you hurt me, you cannot whoop me sir, all's I wanted is my medication, I want to get back to my cell." I knew what his intention was, so--

Hamilton
Q. So you (inaudible), or were you--

[redacted]
A. I just got him in a headlock like this here.

Hamilton
Q. Okay, so he--he had his back toward your chest or was he (inaudible)?

[redacted]
A. Right, his back--back towards my chest.

Hamilton
Q. So you got behind him.

[redacted]
A. Yeah, and then I let him go and I see he still (inaudible) and I just grabbed him like this here. "Sir, sir, officer, I don't want to hurt you."

Bell
Q. --Okay, can you try to describe it, you can't say--

[redacted]
A. --All of a sudden--

Bell
Q. --I grabbed him like this here, we can see you--

[redacted]
A. --Okay--

Hamilton
Q. --but the tape can't--

[redacted]
A. --Okay, okay, okay, at this time--

Bell
Q. --So you grabbed him in like a bear hug--

[redacted]
A. --okay, I grabbed him, yes sir, that's what, I had him in a bear hug, his bootie was facing my back--

Bell
Q. --Okay, wait, wait, you--you said your back--

[redacted]
A. --Yeah, I mean, not my back. Y'all got me all confused.

Hamilton
Q. --and you're pointing at your chest--
Bell
A. --his back--

Bell
Q. --go slow, slow--

[redacted]
A. --okay sir, okay, his bootie was facing my stomach, I had him in a bear hug.

Bell
Q. So his back is to your chest.

[redacted]
A. Yes sir, his back was to my chest.

Hamilton
Q. All right, and you were behind him.

[redacted]
A. I was behind.

Bell
Q. You've got both your arms wrapped around his chest and shoulders.

[redacted]
A. Right, I'm holding him in a bear hug.

Hamilton
Q. Okay.

[redacted]
A. And at this time, that's when the other officers came in.

Hamilton
Q. Okay, how many?

[redacted]
A. There was so many, sir, I could not even--I--I couldn't really count them, there was more than ten, they just came--the--the other officers, they came in.

Bell
Q. The first--first time you see other officers, are you saying there's ten of them, at least?

[redacted]
A. Sir, it was at least ten or more, sir. I see 'em 'cause when I let him go, that's when they all came in--all the officers came in and started punching me and kicking me with their fists and their foot and I was down on the ground.

Hamilton

Q. Back up one second, we've already gone over this but I just want to make sure. You had the deputy in a bear hug, the deputy--assisting deputies responded to the module, you said around ten deputies, and they grabbed you, correct? Or did they start hitting you?

[redacted]

A. No, 'cause when I let this officer go out the bear hug, right, officer, the other officers when they came in--

Hamilton

Q. --Okay--

[redacted]

A. --they had some gloves--

Hamilton

Q. --Okay--

[redacted]

A. --on. Never will forget. They didn't come in to try to put their handcuffs on me, they didn't come in and try to spray me with that pepper stuff, they came in there beat me.

Hamilton

Q. Okay, let's stop right there.

[redacted]

A. Yes, they did.

Bell

Q. Did they all have gloves on?

[redacted]

A. Uh-huh.

Bell

Q. All of them had gloves on?

[redacted]

A.   I seen--okay, like when they came in, I seen so many of them, all I seen some--some gloves on.

Bell

Q.   You're talking one or two of them or are we talking (inaudible)

[redacted]

A.   More than one or two, I would say all of them, sir, I would have to say all of them.

Bell

Q.   You think all of them, but most of them anyway had gloves on.

[redacted]

A.   Yeah, you know the white surgical gloves, those white surgical gloves?

Bell

Q.   You mean the little plastic things?

[redacted]

A.   Yeah.

Bell

Q.   Why would anybody want to put those on to beat anybody with?

[redacted]

A.   I don't know, I put it this way, so--guess so no blood can get on them or no marks or something like that, I don't know.

Hamilton

Q.   So, okay--

[redacted]

A.   --Probably so no blood--

Hamilton

Q.   --as soon as the assisting deputies came into the--the module, you released this deputy, correct?

[redacted]
A. Yes, yes sir.

Hamilton
Q. And then what did you do?

[redacted]
A. I couldn't do nothing but cover my face up when they started beating me.

Hamilton
Q. Okay, and this happened in front of--?

[redacted]
A. --In front of the cell on B row.

Hamilton
Q. Okay, right in front of the-

[redacted]
A. --The fire hose--

Hamilton
Q. --the gate--

[redacted]
A. --right, right there.

Hamilton
Q. Is it in front of the gate or is it against the other wall that is directly across from the B row gate?

[redacted]
A. It's on the B row gate where the shower is right there.

Hamilton
Q. Okay, that's where you were.

[redacted]
A. That's where I was.

Hamilton
Q. Not in front of the gate but just next to the--the bar--

[redacted]
A. --Next--next to the bars--

Hamilton
Q. --right next to (inaudible)

[redacted]
A. Okay, if you see--you will see a fire hose box, sir, right?

Hamilton
Q. Okay.

[redacted]
A. With the hose in--in Baker row shower, right there.

Hamilton
Q. Okay.

[redacted]
A. Okay, that's where we was, right there, that's where it stopped, right there.

Hamilton
Q. Okay, so you let the deputy go and the other deputies came over there and they started punching you, correct?

[redacted]
A. Yes, sir.

Hamilton
Q. Were they punching you hard or soft or--?

[redacted]
A. Sir, these deputies came in there, they tried to kill me.

Hamilton
Q. Okay, my--my question is were they--

[redacted]
A. --They come in and punching--

Hamilton
Q. --hitting you hard--

[redacted]
A. --Oh, yes sir.

Hamilton
Q. And where were they hitting you?

[redacted]
A. Hitting me, hitting me?

Hamilton
Q. Where?

[redacted]
A. It was hitting me--

Hamilton
Q. --On your body--

[redacted]
A. Okay, they was hitting me all over my body, was kicking and I felt one grab my neck like this here and--and then that's when they grabbed my head--the officers grabbed my head.

Hamilton
Q. Okay.

[redacted]
A. And they, so that's all they were doing is beating me up.

Hamilton
Q. Okay, before you fell to the ground, you're saying they--they hit you, where did they hit you, in the upper torso, in your stomach, your back, your face, your arms, your legs, where?

Bell
Q. This is when you're still standing up.

[redacted]
A. Oh, when I'm still standing--when I was standing up?

Bell
Q. Yeah, that's what he's asking.

[redacted]
A. I turned around like this here, covered up. I, I couldn't whop all these officers.

Hamilton
Q. --Okay, but I'm asking you did they hit you--

[redacted]
A. --Yeah--

Hamilton
Q. --and if so, where did they hit you while you were still standing up?

[redacted]
A. They was hitting me all over my head, all on my head and my body, mostly all on my head.

Hamilton
Q. Okay, full force?

[redacted]
A. Full force.

Hamilton
Q. Okay, and then you said in your body as well, correct?

[redacted]
A. Huh?

Hamilton
Q. They hit you in your body, as well?

[redacted]
A. They couldn't get me right here 'cause that's when I went down.

Hamilton
Q. How about in your back?

[redacted]
A. My back--

Hamilton
Q. --Shoulders, arms--

[redacted]
A. --I fell, matter of fact, my--my back, they was kicking me.

Bell
Q. Okay, when you're standing up?

[redacted]
A. No, when I was down, I went down.

Bell
Q. What about when you're standing up?

[redacted]
A. When I'm standing up, no, no, no.

Bell
Q. Nobody kicked you--

[redacted]
A. --No--

Bell
Q. --when you were standing up?

[redacted]
A. Nobody kicked me when I was standing up.

Hamilton
Q. Okay, where did they hit you on your body, you said some in your face, did they hit you in your shoulders or your back while you were standing up, your arms?

[redacted]
A. Sir, these officers, when they came in here, it happened so fast, they was hitting, kicking everywhere. The only thing I did is fell down.

Hamilton
Q. Okay.

[redacted]
A. When these officers beat me, I fell down on the floor, covered my face up--

Hamilton
Q. --Okay--

[redacted]
A. --and they was still beating me.

Hamilton
Q. Okay.

[redacted]
A. 'Cause I didn't want them to mess my face up.

Hamilton
Q. Okay, and you said--you mentioned that the deputies kicked you--

[redacted]
A. --Uh-huh--

Hamilton
Q. --initially when they were all on top of you--

[redacted]
A. --uh-huh--

Hamilton
Q. --where did they kick you?

[redacted]
A. In my back.

Hamilton
Q. Okay, how many times?

[redacted]
A. I couldn't really count, sir.

Hamilton
Q. Okay, that's fair, I'm...(inaudible)

[redacted]
A. I--I--I--I didn't know--I don't know how many times, that's like asking how many times they kicked me in my--in my nut--

Bell
Q. Five to ten times?

[redacted]
A. I couldn't even count. I was getting beat up--

Bell
Q. --More than five times?--

[redacted]
A. --It was all of them beating me.

Bell
Q. I mean as far as the kicks.

[redacted]
A. Far as the kicks?

Bell
Q. More than five times?

[redacted]
A. Oh yes, and when they kicked me in my nuts, I can't even count them.

Hamilton
Q. That's fine, okay, when you--

[redacted]
A. --'Cause my doctor told me--on another thing, too--my doctor told me--

Hamilton
Q. Hold on--

[redacted]
A. --my nuts was like a Jell-O (inaudible) but a, okay now--

Hamilton
Q. You said that before, we understand that, but let's just stay on--

[redacted]
A. --Okay (inaudible)

Hamilton
Q. --what we're talking about. How many times would you estimate that you were hit--punched?

[redacted]
A. Oh, I would say about 30--

Hamilton
Q. --And--

[redacted]
A. --to 40 times--

Hamilton
Q. --we're talking about solid hard punches--

[redacted]
A. --solid blows.

Bell
Q. Okay, how about kicks?

[redacted]
A. Kicks? Sir, I couldn't even count the kicks. The only--only kicks I can really count--

Bell
Q. --50 times?

[redacted]
A. I would say--

Bell
Q. --Five times--

[redacted]
A. --oh, okay, like kicks, okay, okay, I'll have to say like--

Bell
Q. --Before you (inaudible)

[redacted]
A. --about--about ten--

Bell
Q. --before you (inaudible)

[redacted]
A. --so I went down, I'd say about 10 or 15 times--

Bell
Q. --Where did they kick you, in your back--?

[redacted]
A. --In my back, in my back, right.

Bell
Q. And this is before you go down?

[redacted]
A. Uh-huh, before I went down--

Bell
Q. --How can they stomp on you--

[redacted]
A. --I felt--

Bell
Q. (Inaudible)

[redacted]
A. --I--I went down on the ground like this here--

Bell
Q. --you'd have to be a tall dude.

[redacted]
A. I went down, sir.

Bell
Q. Okay, I'm talking about before you go down.

[redacted]
A. Before I went down?

Bell
Q. Yes.

[redacted]
A. Oh no, I mean--

Hamilton
Q. --you said somebody kicked you in your back--

[redacted]
A. One of them kicked me, I felt one kick and then--then--and--it was so many punches, I mean, just beating me and beating me, I fell down, I can't exactly tell how many kicks, sir, I mean, it--it was a nightmare.

Hamilton
Q. Okay.

[redacted]

A. And I still have dreams about that, I--

Hamilton

Q. --Okay--

[redacted]

A. --I can't say how many times, the only thing I can remember is when they, when I fell down, they were still beating me, I just went down on the floor to cover my face and they was beating my head and then I remember these officers--officers said, grabbed me by my braids, I had on braids that night which the doctor can verify that, I had on braids and they grabbed me and said, "one, two, three," and when they said one, two, three, it was like we're gonna bust his head on the floor--

Hamilton

Q. --Okay--

[redacted]

A. --and that's when they grabbed me and I felt one, it had to be about three of them, I felt like--like four hands like this here, holding my braids and one had my neck, you know what I did was trying to just, just choke me to death and this, I felt them and they said, "one, two, three." On the count of three, these officers, they had my head and bammed my head on the floor, bang, you know, three times.

Hamilton

Q. Okay.

[redacted]

A. And then they did it again.

Hamilton

Q. Okay.

[redacted]

A. Three more times, real, real hard.

Hamilton
Q. Okay.

[redacted]
A. They got my head and--and--got my head and on the concrete and just hit my head three times right on the left eye.

Hamilton
Q. Let me ask you something, what were your injuries? What did the doctors tell you, your injuries were?

[redacted]
A. My injuries--my--this left eye, they had to put nine stitches in my left eye.

Hamilton
Q. Okay.

[redacted]
A. And they sewed it up--

Hamilton
Q. --Okay, and that was from the beating on the head--

[redacted]
A. --That was from--

Hamilton
Q. --Slamming your head.

[redacted]
A. That's from them, that's from the officers slamming my head--

Hamilton
Q. --Okay--

[redacted]
A. --on the concrete floor.

Hamilton
Q. What else?

[redacted]
A. And my balls.

Hamilton
Q. Okay.

[redacted]
A. I mean, tec-, tec-, like I said--

Hamilton
Q. --That's--that's all right, you can say balls, nuts (inaudible). We all understand.

[redacted]
A. I laugh about it, they call me [redacted] but anyway sir--

Hamilton
Q. And what else?

[redacted]
A. And that's it.

Hamilton
Q. Okay--

[redacted]
A. --it's like--

Hamilton
Q. --Was there any other scratches on your face, on your body, your arms, legs--

[redacted]
A. --Yes sir--

Hamilton
Q. --Okay, well tell me about them.

[redacted]
A. Scratch on my left, on my nose, right here.

Hamilton
Q. Minor or major?

[redacted]
A. Minor scratch, where he just--

Hamilton
Q. --Okay--

[redacted]
A. --tried to grab me--

Bell
Q. --What, from a fingernail or something?

[redacted]
A. Fingernail.

Hamilton
Q. Okay--

[redacted]
A. --fingernail and then my throat.

Hamilton
Q. Okay, so you had minor lacerations--

[redacted]
A. --Yes--

Hamilton
Q. --or scratches on your face--

[redacted]
A. --Yes, that's correct--

Hamilton
Q. --or in your neck.

[redacted]

A. That's correct.

Hamilton

Q. How about your--your chest, your stomach, your legs, your thighs, your back?

[redacted]

A. No.

Hamilton

Q. Okay, so you're saying that, none, correct?

[redacted]

A. None on my legs and chest, no.

Hamilton

Q. Okay, and if--and if you did have some, they were just minor in nature, they were very minor, you never--you didn't have to have sutures or surgery other than your testicle, correct?

[redacted]

A. Yes, sir.

Hamilton

Q. Nothing, your back, did you have any pain anywhere, your neck, your arms, your finger, anywhere?

[redacted]

A. My back, I have pains in my back.

Hamilton

Q. From what?

[redacted]

A. From when I went down, before I went down, they--they was beating me up, sir. Like I said, they kicked me and they were, I have one mark back here, it's like they were trying to break me, it was like the officers was trying to break me all to pieces and--

Hamilton
Q. That one on your back though, that was a minor injury, correct?

[redacted]
A. Yes.

Hamilton
Q. Okay, because I have a photo of that.

[redacted]
A. Yeah, that's a minor.

Hamilton
Q. Okay.

[redacted]
A. That's what--

Hamilton
Q. As a matter of fact, was it that a, appeared in--

[redacted]
A. That was a kick, that was like somebody--

Hamilton
Q. It was very small, correct? Very.

[redacted]
A. Yeah.

Hamilton
Q. How big would you say that, that injury was onto your back?

[redacted]
A. I have to say what, maybe about what, about two or three inches something like that because I feel something right there like that.

Bell
Q. Any other bruising to your back?

[redacted]
A. Huh?

Bell
Q. Any other bruising to your back?

[redacted]
A. Not that I know of. I can't see.

Bell
Q. Did anybody examine your back?

[redacted]
A. No, they took pictures.

Bell
Q. Who took pictures?

[redacted]
A. Internal Affairs.

Hamilton
Q. We're talking about at the hospital though, they examined you from top--

[redacted]
A. The hospital, right.

Hamilton
Q. --to bottom. They didn't just look at your face--

[redacted]
A. They didn't get, yeah.

Hamilton
Q. --I'm talking about the LCMC in UCLA Medical Center, as you referred to it is USC--

[redacted]
A. Yeah, USC. Yes, sir.

Bell
Q. Okay, you go down to protect yourself--

[redacted]
A. Yes, sir.

Bell
Q. --how many times were you kicked in the back?

[redacted]
A. Sir, to the honest God truth I know I got kicked once back there. I couldn't even count. The only thing I was just doing sir, was just, I couldn't count how many times because--

Bell
Q. At least a dozen?

[redacted]
A. Yeah.

Bell
Q. We're talking twelve?

[redacted]
A. (Sigh) I can't tell you exact, sir.

Bell
Q. We're talking two?

[redacted]
A. Maybe, maybe, maybe about--

Bell
Q. Talking thirteen?

[redacted]
A. --I'd say, see it was mostly beat and kicked, you know, and--

Bell
Q. Well, that's what I'm asking, how many times were you kicked, did it feel like you were kicked by a shoe or who?

[redacted]

A.   I'd say about maybe twelve times.

Bell

Q.   About twelve times?

[redacted]

A.   About twelve. A dozen or, a dozen or something.

Bell

Q.   Give or take three, or four, or six?

[redacted]

A.   Yeah, even more than that. They kicked me by my ribs, too.

Bell

Q.   Okay. So, I'm saying this is going to be sometime between six and eighteen times you were kicked?

[redacted]

A.   I don't think it was that, yes, all together plus when they kicked me in my left, in my testicles.

Bell

Q.   Okay, I'm not talking about your testicles. I'm talking about--

[redacted]

A.   Okay. Just on my back?

Bell

Q.   --in your back or wherever you were kicked?

[redacted]

A.   Okay, I'll have to say--

Bell

Q.   This is prior to being handcuffed?

[redacted]

A.   Right. I would have to say, oh, yeah, okay. When I had, had my hands on the bars, right, I was holding on, forgot to mention that. They were pulling my hands and started kicking those hands,

bam, bam, bam, and this one too so they could get my hands. The officers, they, I had my hands on the bars, holding on, then I was lying down, face, in a bent in. One or two of them was kicking his hands to get my arms to release that bar. That's when they got my hands, like they were trying to break it and took my hands back up. I forgot to mention that and--

Bell

Q. Being kicked elsewhere besides your hands at the same time?

[redacted]

A. Uh-huh. A whole lot of times.

Bell

Q. How many is a whole lot?

[redacted]

A. I would say, say it was so many punches. Like I say, maybe about, with fists, mostly fists. I would say kicks, about twelve. But the most of the kicks is when they--

Bell

Q. How many, how many--

[redacted]

A. --my back and stuff?

Bell

Q. --how many times did they hit you with their fists, in your back, your head, where?

[redacted]

A. Oh, they hit me with they fists. Oooh, I would say about 20 times because (inaudible) because bam, they hit in my head and it felt like--

Bell

Q. They hit you in the back of your head, was--

[redacted]

A. They was hitting me all on my head. Bam. They were hitting all over my head. Bam. They were trying to break my jaw and one of them grabbed like this here trying to-- its one of the officers

as if though they were trying to turn my head, sir, around so they could hit me in my eye. Because I know an inmate, he got beat up like that, so I was basically more or less trying to protect my body to keep it from getting too bad, from beating up too bad.

Bell
Q. Okay. Finally, they get your hands from around the bars and they handcuffed you?

[redacted]
A. They stomped my hands.

Bell
Q. Okay. They stomped your hands and they get your hands behind your back and they handcuff you?

[redacted]
A. Right.

Bell
Q. What happens then?

[redacted]
A. After that I felt, I'd say about two, about, I'd say about two arms, I felt two arms on each--

Bell
Q. You mean two hands.

[redacted]
A. --legs. Two hands, two hands on each of my foot. These officers they opened my legs real wide and I just felt a whole of kicking. They's kicking me, and they's kicking me. I mean that was, that was over 20 times. I couldn't count to be exact. There were so many, I passed out. Then they handcuffed my ankles.

Bell
Q. How many did you feel before you passed out?

[redacted]
A. Before I passed out? Over ten.

Bell
Q. Over ten?

[redacted]
A. Over ten. Way over ten. Fifteen kicks. It was--

Bell
Q. Ten or fifteen?

[redacted]
A. I'd say between ten and fifteen kicks and then--

Bell
Q. And then you passed out?

[redacted]
A. I passed out. I wasn't really out, I just acted like I was dead.

Bell
Q. You're not really out?

[redacted]
A. I wasn't knocked out, no. I was just hurt. I laid in my blood like this.

Bell
Q. Okay. Passed out to me means you're out.

[redacted]
A. Yeah. Well, I went, I went passed out--

Bell
Q. You're not passed out--

[redacted]
A. --I wasn't passed out. I pretended like I was passed out.

Bell
Q. So, you pretended you were passed out?

[redacted]
A. I was knocked out, yes.

Bell
Q. So, you can still feel them kicking you?

[redacted]
A. Uh-huh.

Bell
Q. How many times did they kick you?

[redacted]
A. After that?

Bell
Q. (Inaudible).

[redacted]
A. After, after--

Bell
Q. After that--

[redacted]
A. After that, okay.

Bell
Q. After you're handcuffed--

[redacted]
A. Right.

Bell
Q. --how many times were you kicked in the testicles?

[redacted]
A. Two times to be exact and with that--

Bell
Q. Two?

[redacted]

A. Two times. Two to three times. Because when I overheard, I heard one officer say, "That's enough." One officer say, "It was enough."

Bell

Q. You said, you told the people from IAB--

[redacted]

A. Yeah.

Bell

Q. --seven to fifteen times you were kicked in the testicles?

[redacted]

A. Uh-huh. Sir, to be exact, sir, I can't even count. It was more than, more than that. I felt the hands--

Bell

Q. Well, you told me two or three.

[redacted]

A. Okay, last, no sir. After they, okay. After they kicked me, most of them, after the officers kicked me, right, I felt a hand grabbed my balls and I felt two more kicks and he wanted to kick some more but I heard, no like I said sir, I was lying down in the blood like I was dead. I heard one officer say, "That's enough."

Bell

Q. Okay. After you were handcuffed--

[redacted]

A. Uh-huh.

Bell

Q. --you felt two hands on each one of your ankles or your feet--

[redacted]

A. Uh-huh.

Bell
Q. --they pulled your legs apart--

[redacted]
A. Yes.

Bell
Q. --okay. How many times total are you kicked in the testicles?

[redacted]
A. I can't tell. It was more, I know it was more than a, a, a fifteen times. So it was--

Bell
Q. More than fifteen?

[redacted]
A. It was more than fifteen times. So, it was kicked a whole lot of times.

Bell
Q. So, it's not two or three?

[redacted]
A. No, not this one.

Bell
Q. More than fifteen?

[redacted]
A. See, after they, after this officer, one of them grabbed my balls and smashed them up--

Bell
Q. Uh-huh.

[redacted]
A. --then I could feel two more kicks. Two kicks--

Bell
Q. Uh-huh.

[redacted]

A. --and I heard one deputy say, "That is enough."

Bell

Q. Okay. But they--

[redacted]

A. --one guy, you know.

Bell

Q. Somebody still kicked you, even though?

[redacted]

A. That, that was the last one and then they handcuffed my feet. Because, he would have, he probably wanted to kick, he kicked, I believe this officer's intention was to kick both of 'em, but I heard one officer, like I said I was laying down, say, told this officer, "That's enough, we got him, that's enough." But I did not see what officer did this.

Bell

Q. That's enough, we got him?

[redacted]

A. Yes, that's enough. He told him, I guess his buddy, that's enough. In other words, this officer told this one that was kicking me two more times, I think, then my balls, smash 'em up. Kicked me, and he wanted to kick me some more, but I heard this officer say, "That's enough. We got him."

Hamilton

Q. Okay, and then what happened?

[redacted]

A. And that was it. That's when they put them, then they put them handcuffs on, on my le, on my foot. I was hog tied. Officers, the officers, once they had me hog tied like this, my handcuffs on my arms, and the officers handcuffed my feet and you can see my pictures where the handcuffs was on right there and then that's when I seen this, a senior with two stripes and a sergeant.

Hamilton
Q. How long did it take you to, how long were you in pain from these kicks?

[redacted]
A. Sir, I was in pain the whole time 'til I got to the hospital.

Hamilton
Q. I mean when you say, what were doing, I mean, were you screaming, were you--

[redacted]
A. Sir, yeah, I was hollerin', I was in so much pain. I was hollerin'.

Hamilton
Q. How long were you hollering?

[redacted]
A. Sir, I couldn't holler too much. How long, sir, I hollered to, till I couldn't holler no more. I just, just tightened my muscles and I just like, took the pain.

Hamilton
Q. I mean, you hollered till you got to USC Medical Centers--

[redacted]
A. No. No. I hollered inside where they beat me at and I stopped hollered (inaudible). I was just, I was telling the senior, "Please get me to the hospital. Please sir."

Hamilton
Q. Okay. So, how long would you estimate that you experienced this, this discomfort?

[redacted]
A. I experienced that all the way until surgery.

Hamilton
Q. Okay.

[redacted]

A. All the way to surgery. I was hurting so bad they had to give me a shot every two hours.

Hamilton

Q. Okay.

Bell

Q. A shot of what?

[redacted]

A. Oh, okay. When he examined my, before I went to X-rays, he shot some novocaine in my balls because he was just feeling them, the, the surgeon. I said doc, "No," I told the doctor, I said, "Doctor, don't. It hurts. It's killing me." I said, "Shoot something in there." So, he got a needle and shot in the balls so he could examine it with his hands. So, the doctor said "It's not gonna hurt" and I said when, I said, "It's killing me." Then once he shot that, that novocaine, you know, for your teeth. He shot that in my balls, I didn't feel no pain. That's when I went to the X-ray room and that's when he examined with this little, this X-ray technician examined, he, I was looking. I didn't feel nothing because they had shot that novocaine. But after that novocaine, well that stuff, I guess that's what they call it--

Hamilton

Q. Right.

[redacted]

A. --when they take your teeth out. When that went down, it was killing me. I said, "Do you have anything for pain." Every two hours I had to have codeine.

Hamilton

Q. Did it hurt you to, to move?

[redacted]

A. I couldn't even move.

Hamilton

Q. Did it hurt you to talk? Did you, did it, I don't know.

[redacted]
A. It hurt, it hurt me to even talk. It was killing me.

Hamilton
Q. Okay.

[redacted]
A. I told the doctor, "Whatever you got, give me the strongest medication." They had to shoot me with a needle.

Hamilton
Q. It hurt you to talk but you were screaming?

[redacted]
A. Well, when I was screaming I was hurting then. I said, "Oh, oh, stop please. Lord, Jesus." I was hurtin.' I was hollerin' and I was hurtin', them kicks. And then afterwards, and then plus, and they handcuffed my feet and mashed my legs, going close to the balls--

Hamilton
Q. Right.

[redacted]
A. --I mean my testicles and also.

Hamilton
Q. So, (inaudible) whole time that you were hog tied?

[redacted]
A. Yes, I was hurtin'. I was dying.

Hamilton
Q. Did you tell that to anyone?

[redacted]
A. Yeah. I told them.

Hamilton
Q. Who'd you tell?

[redacted]

A. I told the nurse. You have anything, I'm hurting real bad.

Hamilton

Q. Where did you tell them you were hurting?

[redacted]

A. This is at the Central Jail clinic.

Hamilton

Q. Where did you tell them that you were hurting? What part of your body?

[redacted]

A. I told them I was hurtin. I said from my stomach down there. They didn't do nothing but just put me in ambulance.

Hamilton

Q. Okay.

[redacted]

A. And sent me to UCLA Hospital, I mean the nurse and the deputies. There were two of them in the ambulance and he kept saying, "Williams, when you was in the cell, the fifth one got you, huh, huh? The fifth one got you, huh?" And--

Hamilton

Q. Let's go back to the clinic--

[redacted]

A. Clinic.

Hamilton

Q. Let's go back to the clinic. You were saying that you told some medical personnel or the deputies down there with you?

[redacted]

A. The nurse.

Hamilton

Q. That you told her that your stomach was hurting or your testicles were hurting or?

[redacted]
A. I told her, "I'm hurtin', I'm hurtin." I just told them I was hurtin. "Do you have anything for pain? I'm hurt. So, please."

Hamilton
Q. Did you specify where you were hurting?

[redacted]
A. Nope.

Hamilton
Q. You never tell them your stomach or?

[redacted]
A. No. I said, "I'm hurtin.'" I told this nurse, "I'm hurt real bad. Do you have anything for pain?"

Hamilton
Q. Okay. What nurse was that?

[redacted]
A. And I said, "Please", why, it was a Chinese nurse.

Hamilton
Q. A male or female?

[redacted]
A. Male, female.

Hamilton
Q. What did she look like?

[redacted]
A. Female nurse.

Hamilton
Q. Brown hair, black hair--

[redacted]
A. She's--

Hamilton
Q. --blonde hair?

[redacted]
A. --black hair. I'll know her when I see her.

Hamilton
Q. How tall?

[redacted]
A. I would say about 5'2". Little Chinese nurse.

Bell
Q. Female Chinese or Oriental--

[redacted]
A. Female, female. She was Oriental.

Bell
Q. Do you know Chinese from Japanese?

[redacted]
A. Well, she was Oriental. I don't know the difference between them.

Bell
Q. Okay.

[redacted]
A. She was Chinese or Japanese.

Hamilton
Q. Wears glasses or not?

[redacted]
A. No, she didn't wear no glasses. A little short, little nurse.

Hamilton
Q. So, you told her that you were in pain but you didn't specify where?

[redacted]

A. I just told 'em I'm hurtin', No, I said I'm hurtin'. Well, you, she said, "Oh, Mr. [redacted], you're going to the hospital. You'll be all right." The only thing they did is they cleaned all the blood off of my face and he took a picture.

Hamilton

Q. Did you tell the doctor that you were experiencing pain?

[redacted]

A. Yes, I did.

Hamilton

Q. What did you tell him?

[redacted]

A. I told him my nuts.

Hamilton

Q. The doctor here, you tell him?

[redacted]

A. Oh, not, not here.

Hamilton

Q. Okay.

[redacted]

A. At the General Hospital. It used to be General Hospital. Now, it's UCLA Hospital.

Hamilton

Q. Okay.

[redacted]

A. I told that particular surgeon.

Hamilton

Q. How about the doctor here?

[redacted]
A. No.

Hamilton
Q. You didn't tell him that you were experiencing any discomfort?

[redacted]
A. The only thing they did was this nurse, I even had, I was still hog tied--

Hamilton
Q. Right.

[redacted]
A. --with the cuffs on me and everything because it was killing me from my left testicle. The only thing she did was put water on me. She said, "You're going to the hospital, Mr. [redacted]. You'll be all right. You're going to the hospital."

Hamilton
Q. Okay.

[redacted]
A. And that's all they did--

Hamilton
Q. Okay. Did they ever move you--

[redacted]
A. -- I mean, you know, the nurse.

Hamilton
Q. --around in the gurney when you were down here in the clinic? Did they ever move you?

[redacted]
A. Around?

Hamilton
Q. Yeah. Or did they just keep you on your side and they asked you to turn over, did they ask you, did they help you move over, did they do anything?

[redacted]
A. No. They didn't do nothing.

Hamilton
Q. I'm talking about deputies--

[redacted]
A. The nurses?

Hamilton
Q. --anyone. Did they ever move you around on the gurney once you were on it?

[redacted]
A. No.

Hamilton
Q. Okay. They didn't tell you to move around so they could take pictures of you or anything like that?

[redacted]
A. No. They took pictures. They took a picture of me when I was on that, you know, that cart. I mean the--

Hamilton
Q. The gurney.

[redacted]
A. --the gurney thing. They took a picture of me and all that blood--

Hamilton
Q. Okay.

[redacted]
A. --and that's all.

Hamilton
Q. You were saying that because your legs were hobbled and they were closed, that created some pains?

[redacted]
A. Yeah.

Hamilton
Q. Was it excruciating pain or was it...

[redacted]
A. It was so much pain, sir, I wanted to die.

Hamilton
Q. Were you able to talk?

[redacted]
A. No, I wasn't. It was killing me.

Hamilton
Q. Okay. But were you...

[redacted]
A. I mean if I say something, you know, I was having so much pain.

Hamilton
Q. Right. Have you ever been, let me ask you something. This may sound silly. Have you ever been kicked in the groin?

[redacted]
A. Oh, yes.

Hamilton
Q. Okay.

[redacted]
A. I've been kicked in the groin a lot of times by my girlfriend (laugh). I'd be playing with her. I kick you like this here. Or grab you or, or, or, like sometime, me and the wife, we plays in the bed and she grab me. And I say, "Girl, don't be grabbing them like that." No, I got kicked, oh yeah it hurt. I mean but this is 20 times more pain--

Hamilton
Q. Were you?

[redacted]
A. --and then they took the cuffs off of my legs there. Then they took me to the--

Hamilton
Q. Where?

[redacted]
A. Right there. This little clinic, Central--

Hamilton
Q. Okay.

[redacted]
A. --before I went to the hospital.

Hamilton
Q. Okay. Did that hurt?

[redacted]
A. It was killing me.

Hamilton
Q. Did you yell? Did you scre?

[redacted]
A. I'm just gritted my teeth. I told them hurry up. They say, "You're going to the hospital. You'll be all right." I said, "I'm hurting bad, please. Give me some water. Give me some water."

Hamilton
Q. Let me ask you something, and once again, this may sound silly. How were you able to control that pain, that excruciating pain?

[redacted]
A. How was I able to control it?

Hamilton
Q. Yeah. Or were you?

[redacted]

A. I tried to keep my mind off of it. I just tighten up my muscles and my teeth and just kept on, just taking the pain, that's it.

Hamilton

Q. What a guy.

[redacted]

A. I just, I just took it. I couldn't do nothing about it but just, I just didn't move. When they tried to move me, I said, "Don't move me." When I was in the ambulance, I said, "Please sir, don't move me."

Hamilton

Q. Did you talk to the ambulance driver or attendance? Did you tell him what happened?

[redacted]

A. No.

Hamilton

Q. How about the deputies?

[redacted]

A. The deputy was in there. There were two of them.

Hamilton

Q. Did you talk to them about it? You were already en route to the hospital so they couldn't have changed it.

[redacted]

A. No. No.

Hamilton

Q. So, you had that much presence of mind to, to come up with this plan of deceiving, basically, the deputies and medical staff here so you could get to the hospital?

[redacted]

A. That's all I wanted to do.

Hamilton
Q. You had that much control after experiencing what you had experienced?

[redacted]
A. Uh-huh.

Hamilton
Q. Okay.

[redacted]
A. Because, as a matter of fact, the two that was in the ambulance, one of them--

Hamilton
Q. Uh-huh.

[redacted]
A. --I know him. Like I said, I, I was, I used to always talk to him, and--

Hamilton
Q. Okay.

[redacted]
A. --but he wasn't involved in that.

Hamilton
Q. Right.

[redacted]
A. He said, "[redacted]you hurt? Where?" I said, "I'm just hurtin'." I didn't wanna tell him. They didn't even know. I didn't wanna tell no officer, nothing. The only thing I was thinking about is to get to the hospital and then I told the doctor because he asked me, "Who kicked you?" I said, "The sheriffs, you know."

Hamilton
Q. Okay.

[redacted]

A. I told the doctor, I'm gonna tell you the honest to God truth. This, this is right there where, emergency room, where he was, when he tried to examine my nuts, I said, "Doc, please. You try open my legs, it's hurting. It's killing me. Doctor, do you have any kind of pain? Why don't you just shoot me up with some morphine or something? Doc, because my mother, she died of cancer. I just imagine and I killin.' I said, "Doc, you know something. I don't even want you to do nothing. Just let me die." He said, "No, I have to save your life." I said, "Why? So, you're gonna send me back there so they could kill me and beat me some more?" He said, "No, I got to save you." I was hurting that bad. I didn't wanna live.

Hamilton

Q. Okay, let me move on. You had mentioned that there was a trustie, was there one trustee, were there numerous trusties that saw that was going on or was there any trusties that saw what was going on?

[redacted]

A. There was only one trustie. He actually didn't see because the deputy told him before this even happened--

Hamilton

Q. Right.

[redacted]

A. "Go to your cell."

Hamilton

Q. Okay. Did he tell him before you came off the row or after?

[redacted]

A. As soon as I got up there--

Hamilton

Q. Yeah.

[redacted]

A. --he told the trustie, "Go to your cell."

Hamilton
Q. So, that's actually before you walked in the, before you came off the row?

[redacted]
A. Yeah, when I went up to the row, up there--

Hamilton
Q. Yeah.

[redacted]
A. --before he pushed me against the wall--

Hamilton
Q. Okay.

[redacted]
A. --he told the trustie, "Go to your house."

Hamilton
Q. Where did the trustie go? Where was he housed?

[redacted]
A. I don't know what house. This is on "A." This is on "A" side.

Hamilton
Q. So, that's up, the upper row to the left as you walk into the module?

[redacted]
A. He could see. He could see. He seened it.

Hamilton
Q. Okay.

[redacted]
A. "Cause see they be lookin' at TV up there.

Hamilton
Q. Okay.

[redacted]
A. I know one had seen it. I know one of the trusties.

Hamilton
Q. Okay, hold on.

[redacted]
A. Okay.

Hamilton
Q. What did the trustie look like?

[redacted]
A. It was a Mexican trustie, fat.

Hamilton
Q. Okay.

[redacted]
A. Big, hefty, fat Mexican. And another trustie--

Hamilton
Q. Tall?

[redacted]
A. Yeah, tall.

Hamilton
Q. How tall was he?

[redacted]
A. I would say about 6'1".

Hamilton
Q. Okay.

[redacted]
A. Tall, big

Hamilton
Q. Do you know his name?

[redacted]

A. No.

Hamilton

Q. Does he have a mustache? Color of hair?

[redacted]

A. He had a mustache but, you know, this is a Spanish trustie.

Hamilton

Q. First of all, how do you know he's a trustie?

[redacted]

A. Because they wear the orange... See the trusties have the orange shirt and a blue pants and then they have, they had a little card hanging from their, from their pants.

Hamilton

Q. So, he sends them down to the row prior to you actually getting involved in this altercation with the deputies--

[redacted]

A. Uh-huh.

Hamilton

Q. --so, you don't know if he saw it or not? You're assuming?

[redacted]

A. I don't know if he saw it or not.

Hamilton

Q. Okay. Anybody that was out there, maybe on the phone, in the storage room, anybody walking in, any, did you notice anyone else?

[redacted]

A. Nobody.

Bell

Q. You said, I thought you just started to say that another, you know of a trustie?

[redacted]

A. I know. So, I said know, who, that know, know who did it. But he's not gonna testify because I asked, I try to get, you know.

Bell

Q. He knows or he saw?

[redacted]

A. He knows. He saw. He was up there. A matter of fact, in day room, day room when we came down there, he seen it. But I asked him, will you, 'cause a private investigator came and see me and asked me for the witness I got. I got several witness that heard and seen the incident. I asked him to be one of my witnesses and he say, "Uh."

Hamilton

Q. What's his name?

[redacted]

A. He's from... He's a crip. I don't even know his name.

Hamilton

Q. What did he look like?

[redacted]

A. Bald head. Short, stocky, a little short neck. He had a beard.

Hamilton

Q. A brother?

[redacted]

A. A brother, yeah.

Hamilton

Q. Okay. What cell is he in? Or was he in?

[redacted]

A. He's not here no more.

Hamilton

Q. That's okay. That's not what I'm asking. What cell was he in?

[redacted]

A. What cell? I don't know because I think the trusties be on the other side. They, I think they'd be on A or either C.

Hamilton

Q. So, is it, do you know what he was in jail for?

[redacted]

A. No.

Hamilton

Q. Do you know what he looks like?

[redacted]

A. Uh-huh.

Hamilton

Q. What did he look like?

[redacted]

A. Bald head with a short neck like this. Big, short, and stocky.

Bell

Q. What did they call him?

[redacted]

A. [redacted], East Coast. Crip.

Hamilton

Q. That's what they call him? No, what do they call him? Not where he's from.

[redacted]

A. I never heard them call him, this one, a particular name. They just say, "trustie" or "homeboy." But he's from, he's from, East Coast Crip. That's all I know about this guy. This guy he's, see this guy he's fun. He's fun and stuff, see. The guys, you know, if they don't speak to me, I don't speak to them.

Hamilton

Q. Is he dark complected, light complected?

[redacted]

A. No, he's your complexion. And I asked him, I said, "Well you seen it." He said, "I know. But I'm not gonna, I ain't gonna testify."

Hamilton

Q. Did he go to the pen?

[redacted]

A. I think he's in the pen now. I haven't seen him. He got his time, went to the pen. I don't even like him, because he's funny. He had funny ways.

Hamilton

Q. People do that to you.

[redacted]

A. Especially he's a trustie, you know, he thinks he's better than everybody else, you know. So, I'm the type of person like this here, I don't socialize with nobody that don't like me or I thought that I can't get along with them or socialize with them, period. I be my own man. See, number one, I don't get along, I mean I can get along with these gangbangers but I don't have nothing in common with these guys. See because they know, if it comes out to a fight, I'm not gonna help these, these gangbangers, blood or crips, fight each other, you know.

Hamilton

Q. Let me get back to this because this tape is coming to an end. Did you, when was the first time that you talked to Michael or any of your cell mates or anybody in that module after the incident? When was the very first time?

[redacted]

A. I didn't talk to anybody that was, I talked to, the only person I talked to is my witness. The guys I wrote down because my private investigator he said that--

Hamilton

Q. Okay, let me, listen, answer my question.

[redacted]

A. Okay.

Hamilton

Q. When was the first time that you talked to anybody that was in that module after the incident? When was the very first time?

[redacted]

A. Oh, the first time is with the trustie.

Hamilton

Q. Which trustie? The guy you're talking about?

[redacted]

A. The same one. Yeah, him.

Hamilton

Q. When was that?

[redacted]

A. That was after I got out the hole. They put me in the hole-I don't know why. That was after I got to the hole and then they sent me back to 4400.

Hamilton

Q. So, when you came back from LCMC, you returned to the hole?

[redacted]

A. Yes, They put me in the hole.

Hamilton

Q. Okay, and you talked to an inmate. When did that occurred?

[redacted]

A. Okay, I was in the whole for three days. Oh, let's see, about November the 6, I believe it was--

Bell

Q. Okay.

[redacted]
A. --I can't recall, I cannot recall the exact date.

Hamilton
Q. When did you talk to [redacted] your new cellmate who may have witnessed that incident?

[redacted]
A. Oh, I didn't see him. I seen him one time.

Hamilton
Q. Where was that?

[redacted]
A. He was coming from chow.

Hamilton
Q. Okay.

[redacted]
A. And he said, "[redacted]" And I say, "Hey, what's up man?"

Hamilton
Q. Did you guys chit-chat?

[redacted]
A. We didn't get a chance to because he's in a different module. He was just going, he was leaving from chow and I was going to chow from 4400. He's in another module somewhere. I don't know where, but he's still, he's still here--

Hamilton
Q. Okay.

[redacted]
A. --But it was all my cellies that was there. When this incident occurred, they moved him off--

Hamilton
Q. Okay.

[redacted]

A. --in Baker 4.

Hamilton

Q. Okay. Is there another witnesses that you know of that saw the, that saw the incident? Not heard about it, that saw it?

[redacted]

A. Oh, yeah. A whole, the whole row. Oh, yeah, I could give about six more, I could give about ten more right now because they told me, "Man, we thought you was dead."

Hamilton

Q. How can you, I've been on that row, I used to work here. And, how can you see from those cells what was going on up at ...?

[redacted]

A. I'll tell you what sir. Okay, we in the cell, they just come with a bar (unintelligible) he just like that. You can see exactly, you can see mailboxes, you can see everything.

Hamilton

Q. So, give me some names, who saw what happened?

[redacted]

A. Ah names, whew. See, they left my property over there too. I got the names over there.

Hamilton

Q. Over where?

[redacted]

A. At Long Beach, over there.

Hamilton

Q. Your property stays with you. So, if your property--

[redacted]

A. I had a, I had a, I had a seizure.

Hamilton

Q. Uh-huh.

[redacted]
A. So, when I had a seizure, they just left my property. They're supposed to give me my property.

Hamilton
Q. Your property, you mean--

[redacted]
A. That I left over at this Long Beach--

Hamilton
Q. USC?

[redacted]
A. No, this jail. I mean, you know, this new jail. All my property with my witness' names.

Bell
Q. Lynwood Justice Center?

Hamilton
Q. They transfer it with you, from my understanding, so your property should be here.

Bell
Q. Okay, well if he gets taken and his property doesn't get taken, his property is probably gone.

[redacted]
A. They didn't take it. I have all the names but--

Hamilton
Q. Okay.

[redacted]
A. --my wife has all the names.

Hamilton
Q. Of all the witnesses. So, we could contact your wife and she'll give us the names?

[redacted]
A. Uh-huh.

Hamilton
Q. Okay. We'll contact your wife.

[redacted]
A. And I got, oh, you know where the rest of the witness[es] Baker 10 and Baker 8.

Hamilton
Q. Your wife has the names, correct?

[redacted]
A. Yes, she has all the names.

Hamilton
Q. Okay.

[redacted]
A. Yes, sir.

Hamilton
Q. How long did this incident take between you and the deputies?

[redacted]
A. Oh, let's see.

Hamilton
Q. A minute, five minutes, ten minutes?

[redacted]
A. Oh, no. I would say at least, about 25 to 30 minutes because they left, they left me on that floor bleeding and then that's when the sergeant and the senior came in. So, I have to say about 30 minutes.

Hamilton
Q. So, they left you on the floor--

[redacted]
A. Hog tied.

Hamilton
Q. --for 25 minutes?

[redacted]
A. More than that. I was laying there bleeding.

Hamilton
Q. Okay. How long did the altercation take between you and the deputies? With regards to the deputies with the beatings and hobble?

[redacted]
A. I would say about 15 minutes.

Hamilton
Q. So, they beat you for 15 minutes?

[redacted]
A. I'm talking, the ones that came in?

Hamilton
Q. I'm talking about from the moment that you started wrestling--

[redacted]
A. The first one?

Hamilton
Q. --the first deputy to the moment they put the hobble on you.

[redacted]
A. The other officers?

Hamilton
Q. Yeah.

[redacted]
A. Oh.

Hamilton
Q. I mean they hog tied you. How long did it take from beginning to?

[redacted]
A. I would have to say, sir, at least about 30 to 40 minutes.

Hamilton
Q. So, they beat you for 30 to 40 minutes?

[redacted]
A. Not that long, beaten that long, but I'd say altercation between the first one and the other one came in there, I said the one that, the rest of them, I'd have to say about 10 to 15 minutes. I would have to...

Hamilton
Q. Do you understand what I'm asking you?

[redacted]
A. How long, the whole thing.

Hamilton
Q. How long did it take, not the whole thing. How long did it take from the moment you started wrestling with the first deputy--

[redacted]
A. Uh-huh.

Hamilton
Q. --to the moment that they put, they put the hobble, what we called a hobble restraint on your legs--

[redacted]
A. Uh-huh.

Hamilton
Q. --and they handcuffed or they attached it to the handcuffs? How long did that take from that moment to the point they put the restraints on your legs?

[redacted]
A. Sir, I'll have to estimate about 20 minutes.

Hamilton
Q. So, for 20 minutes you're struggling with the deputies?

[redacted]
A. No, I'm not struggling. I was getting beat up, sir, by the deputies. I wasn't struggling.

Hamilton
Q. You were involved in an altercation with the deputies for 20 minutes?

[redacted]
A. I couldn't fight all of them deputies.

Hamilton
Q. Well, that's, you--

[redacted]
A. I was getting beat (laugh)--

Hamilton
Q. --do you understand what I'm saying?

[redacted]
A. --all together. All the kicks, all together, I'd say about 20 minutes, sir.

Hamilton
Q. Okay, I understand. You're saying that you weren't fighting the deputies--

[redacted]
A. I couldn't (laugh).

Hamilton
Q. --that's not what I'm asking you.

[redacted]
A. Okay.

Hamilton
Q. Okay. So, it took you 20 minutes?

[redacted]
A. Yes.

Hamilton
Q. How long did you lay there after they put the hobble to the moment that you went down to the clinic?

[redacted]
A. More than 10 minutes.

Hamilton
Q. More than 10 minutes, less than 20?

[redacted]
A. I would say, about, between 10 to 15 minutes because they was talking.

Hamilton
Q. Okay, that's fine. Just answer my question.

[redacted]
A. Yes, sir.

Hamilton
Q. So, it took you, it took 20 minutes basically--

[redacted]
A. Yeah.

Hamilton
Q. --to struggle with the deputies and then to hobble you in? It took another, approximately 10 to 15 minutes before they took you to the clinic to be seen by the medical staff, correct?

[redacted]
A. Yes, sir.

Hamilton
Q. Okay. And, then how much longer did it take before you went to USC Medical Center?

[redacted]
A. Oh, I'd have to say about, it didn't take but 5 minutes, about 5 minutes.

Bell
Q. How are we doing on tape?

Hamilton
Q. Oh, we got a little left. Do you remember talking to another sergeant, a very tall sergeant, down there in the clinic as he was filming you?

[redacted]
A. Filming me?

Hamilton
Q. Yeah, on the video tape.

[redacted]
A. I wasn't talking to nobody.

Hamilton
Q. Yeah, you were. Trust me.

[redacted]
A. Oh, you're talking about, about what happened. They were filming me?

Hamilton
Q. Do you remember any of that?

[redacted]
A. I remember somebody took a picture of my face.

Hamilton
Q. A still photo?

[redacted]
A. Yeah.

Hamilton
Q. Okay. All right.

[redacted]

A. That's all I remember.

Hamilton

Q. Okay. Do you have any--

Bell

Q. Okay, you've talked about being in three different prisons, Chuckawalla, Folsom...

[redacted]

A. Pelican Bay.

Bell

Q. ...and Pelican Bay. Do you remember Atascadero?

[redacted]

A. Oh, yeah, I've been to Atascadero. I want to tell you about this here.

Bell

Q. What? Another incident?

[redacted]

A. No. This is what happened, sir. And, this, I was a, only Christ knows this. Only Jesus Christ knows this. When I was at CMC, my buddy said, "Man, you oughtta go to Atascadero with me because they got women there. You meet some pussy, man. It's a kick back." I said, "How am I gonna get to Atascadero, boy?" "Just play crazy, tell him, go see the psychiatrist, tell him you're hearing voices." "You mean they got women there, you know, crazy women with (inaudible) and everything?" That's what my buddy tells me. He was going to Atascadero, right?

Bell

Q. Okay.

[redacted]

A. He told me what to do to get there. I said, "That's how I get there?" He said, "Yeah, man. Why you think you're here at CMC, you would have been in another messed up prison. Just tell, go tell 'em, ask to...request to see the psychiatrist and tell him

you're hearing voices, then they're going to send you to Atascadero."

Bell
Q. This is when you're out of Chino?

[redacted]
A. No, this is CMC.

Bell
Q. Where is CMC?

[redacted]
A. CMC, yeah.

Bell
Q. Where is CMC?

[redacted]
A. CMC is not too far from Sacramento. San Luis, San Luis Obispo. It's not too far from, I think, Sacramento, CMC. It's where they have PC cases and you have two-man cells and they evaluate you right there and they see that you flipped out, then they'll send you to Atascadero.

Bell
Q. Okay.

[redacted]
A. You know. Like I said, I just perpetrated.

Bell
Q. You ever fought with the police on the street?

[redacted]
A. On the street?

Bell
Q. Uh-huh.

[redacted]
A. No.

Bell
Q. Okay, anything else sir? Do you?

Hamilton
Q. What's your wife's information. Where do you guys live and your home phone number, so we can contact her and her name?

[redacted]
A. Okay. [redacted].

Hamilton
Q. Okay.

[redacted]
A. Phone number. You want the address?

Hamilton
Q. Yeah, go ahead.

[redacted]
A. Address is [redacted]--

Hamilton
Q. 37th?

[redacted]
A. [redacted]

Hamilton
Q. Right. In what City?

[redacted]
A. [redacted]

Hamilton
Q. Okay. And her name is [redacted]--

[redacted]
A. [redacted]

Hamilton
Q. [redacted]Your legal wife?

[redacted]
A. We're common-law. We're gettin' ready to get married.

Hamilton
Q. Okay, 213 area code?

[redacted]
A. [redacted]

Hamilton
Q. [redacted], go ahead. What's the number?

[redacted]
A. Okay. [redacted]-

Hamilton
Q. Right.

[redacted]
A. --[redacted]. Okay, now, put, okay. If she's not there-

Hamilton
Q. Yeah.

[redacted]
A. --you could put her sister's name. Ask for [redacted]. [redacted], her sister.

Hamilton
Q. Is [redacted] going to have the information?

[redacted]
A. Oh, yeah. They stick together because if [redacted]not there, a lot of times she'll be babysitting, if she's not there than [redacted] has the information.

Hamilton
Q. Does [redacted] work?

[redacted]
A. Nope.

Hamilton
Q. Okay. Okay. Is there anything that you've provided us, all the information that you've provided us is the truth, correct?

[redacted]
A. Yes, sir.

Hamilton
Q. Okay. Anything else you wanna add to this, as far as this incident?

[redacted]
A. I just wanna say, sir, I am not the only victim. If you ever go up there to 7000, where they say mental patients, I've seen, before this incident on me, I've seen them beat down guys like they, like they're dogs.

Hamilton
Q. Okay. What we're doing right now is dealing with your incident.

[redacted]
A. Okay. Well, that's, that's it as far as mine's concern but.

Hamilton
Q. Can you recognize any of the deputies if we show you pictures?

[redacted]
A. Yeah.

Hamilton
Q. Okay. You can recognize the deputies?

[redacted]
A. Uh-huh.

Hamilton

Q. Okay. All right, we're gonna end this interview at 14, we'll just say 1440 hours.

Hamilton

Q. Okay, we're back on tape at 1445 or 47 hours. I have a couple more questions to ask you. Are you on medication right now?

[redacted]

A. Yes, sir.

Hamilton

Q. What type of medication are you on and why are you taking it?

[redacted]

A. [redacted] and [redacted].

Hamilton

Q. And, what else?

[redacted]

A. And [redacted].

Hamilton

Q. Why are you on it?

[redacted]

A. Because I [redacted]

Hamilton

Q. Is that the truth?

[redacted]

A. No. Because (inaudible). I can't [redacted]--

Hamilton

Q. Okay.

[redacted]

A. --(inaudible) because they transfer me here and there. I am being [redacted] and the doctor said [redacted] from this beatin'.

Hamilton
Q. Okay.

[redacted]
A. Every time I--

Hamilton
Q. Well, is it from this beating because you were taking medications prior to the beating, correct?

[redacted]
A. Uh-huh.

Hamilton
Q. Okay. The same medications that you just told me that you're taking. You took it prior to this incident.

[redacted]
A. Oh, yes.

Hamilton
Q. Hold on. Correct?

[redacted]
A. Yes.

Hamilton
Q. Okay. And you also, you're taking medications because you have seizure?

[redacted]
A. Yes, sir.

Hamilton
Q. Okay. Are you willing to take a polygraph examine?

[redacted]
A. Yes, sir.

Hamilton
Q. Are you sure? You don't have to do it. You're aware of that?

[redacted]
A. Yeah, yeah.

Hamilton
Q. Okay. You were gonna say something real quick?

[redacted]
A. I want to say that I was beaten before by officers.

Hamilton
Q. Where at?

[redacted]
A. This is at HOJJ.

Hamilton
Q. When was it?

[redacted]
A. About, Whew [pause] I think it was '82.

Hamilton
Q. '82.

[redacted]
A. So--

Hamilton
Q. 1982 at the Hall of Justice?

[redacted]
A. Hall of Justice, yeah.

Hamilton
Q. Okay. Was that reported? Did you talk to supervisors or anything?

[redacted]
A. No.

Hamilton
Q. Okay. All right, let me end this interview at 1452.

END OF INTERVIEW

I/M [redacted]
I.A.B. INTERVIEW 10-28-94

WITNESS INTERVIEW

CASE NUMBER IAB 008383

[redacted] Booking #[redacted]

Nemeth:
Q. Okay, today's date is Friday October 28th. The time is 1830 hours. I'm Sergeant John Nemeth from the Internal Affairs Bureau. This is my partner, Sergeant Tim Cornell and Sergeant Curt Burnett. Okay? And today we're present here at the Los Angeles County Jail Wards of LCMC interviewing inmate [redacted] and what's your booking number, [redacted]

Williams:
A. Booking number is [redacted]

Nemeth:
Q. Okay.

Cornell:
A. Okay, [redacted] the rea– . . . I've . . . I've told you before is the reason we're here is we're conducting investigation to the incident between you and the deputies in the module yesterday morning at 2200, you're looking at about, oh, midnight or so, okay? And what I'd like for you to do is just in your own words tell us what happened with regard to you and . . . and the deputies over there and how you got injured, okay?

[redacted]
A. Okay, okay, I was in Baker Row . . . Baker Row 4, so I was waiting to see the Psyche, 'cause I'm . . . I'm a known schizophrenic, plus I was awaiting to see the doctor about my medication, because I have problems sleeping at night and so they say they have to wait and they don't so they open up the cell door so me and this white guy and me came out, so I went and I said, "Hey, they'll call for . . . to see the psyche, or whatever, and he said, "No," and this one particular officer can't remember his name, but and this other guy, right, so we just waiting, right? So I'm just standing in the hall and so I (inaudible) and the guy didn't call me to see the psyche or whatever, or see the doctor about my phenobarbital so I could sleep at night whatever, and my Dialatin, cause they're refusing my medication and the results of my medication didn't (inaudible), I had a seizure at Wayside. And I said, "Come on let me inside," and he wouldn't do it, so I said, "Well, let me just walk around, maybe he'll see me roaming and he'll notice me," so I got the broom, and I started sweeping the hall. So then, this white guy called my wife, my cellie, his name is [redacted] I forgot his last name, but he called my wife anyway. My wife . . .

Cornell:
Q. [redacted]

[redacted]
A. His name is [redacted]

Cornell:
Q. He was a cell mate, [redacted] was?

[redacted]
A. He was a cell mate, right. His name was [redacted] He called my wife and told her exactly what happened.

Cornell:
Q. Okay.

[redacted]:
A. So they put him in the shower. Right? So he called me and said, "Come here you 'fuckin asshole,' I'm going to teach you a 'fuckin' lesson."

Cornell:
Q. Who said this, now?

[redacted]:
A. Oh, the . . . the deputy, that was working that particular night. I say, "For what," I said, "Wait a minute now, are you going to try to jump on me again." "No, just come here, fuckin asshole." I said, "Now, I know you all jumped on me once before. I just want to go to my cell, I want no problems," because the first day I got there, as a matter of fact, you know, when you first get booked and everything, you go in there until . . . to see about your medication and they ask you about your psyche medication and whatever kind of medication you take. I was talking to one of the female nurses and they said . . . I was talking, I called her, "Baby," and all of sudden he grabbed me and he said, "You fuckin," and I said, "Well, where . . . where are we going officer?" He said, "I don't like the way you talk." He just threw me down while I was handcuffed, and he started beating me up.

Cornell:
Q. Now, when . . .

[redacted]:
A. This is the first time, but this incident right here what happened last night . . .

Cornell:
Q. Okay, hang . . . hang on.

[redacted]:
A. That . . . that was before, when I first got . . .

Cornell:
Q. That was when you were first came into the County Jail?

[redacted]:
A. . . . when I first came in. Right. Okay, this time. . .

Cornell:
Q. When were you arrested?

[redacted]:
A. I believe that was the 26th, let's see this is October . . . September, the first day.

Cornell:
Q. And . . . let's . . . let's . . .

[redacted]

A. Okay, so let me get back to this . . . this . . . so he said, "Come here, asshole." So I said, "Oh, no," so then he said, "Get up against this fuckin wall."

Cornell:

Q. All right.

[redacted]

A. I said, "Sir, I just come here and, I haven't been sleeping and I need my phenobarbital and I need my psyche medication." I said, "Just," then I go, "Sir." So he puts me against the wall, and he was going to put the handcuffs on, and I said, "No, man, no, stop, man, come on, man. Don't try to hurt me," and he grabbed me and threw me down and said, "Come on . . . come on, man, I don't want to hurt y[redacted] the next thing you know it was about . . . maybe about what nine or fifteen, I can't remember but [redacted] my cellie, he seen it, and he grabbed me and he grabbed me by my head. I was face down around . . . "You fuckin asshole," he said, "1, 2, 3, bam, bam, bam," that's when I got busted right [redacted] said, "Come on, come on, sir, come on," I said, "Jesus Christ, don't try to kill me," and my cellie, [redacted] he was right in the shower, so he seen everything. He was looking, you know, and he kept on, bam, bam, bam. I said, "Come on, no, let me go to my cell," and he grabbed me and then he tried to break my wrist and he finally got my wrists behind my back and handcuffed me and they were hitting me. He had handcuffed me from the back while I was like that. One officer, I couldn't see while face down, he grabbed me and just kicked me. Bam, bam, bam. I felt one of them just grab my nuts, while squeezing it, bam, bam, bam. I said, "Oh, officer, oh, please don't kill me, please?" Then he handcuffed my feet and like hog tie. Then at that time I passed . . . I was swimming in my own blood. You see, half time, I . . . I . . . I've been really passed out. I said, "Oh, Lord, Lord, please don't let them kill me." At this time a Sergeant and other two with stripes came in there and they said, "What happened," and this time my cellie [redacted] was right there and he was looking. And they said, "Turn your ass around, asshole," and that was me right there in the (inaudible) full of blood.

Cornell:

Q. Who said that to him?

[redacted]

A. One of the officers that were abusing me. He told him to turn around. He was in the shower. He was looking at the whole thing. He seen it all. He tell my wife. He said it scared him that there was so much blood. I was just drowning in my own blood.When he came over I was bleeding. I turned around like this, you know, looking at the officer's name at the one that said, "Come here, asshole," the one who came over there and put his foot on my head, so I don't look, so I won't get this idea, his name and everything. Then. . . then [redacted] my cellie, he was looking, because, see when they gave, put him in there in the cell lock I just got my blanket 'cause it was cold, my bed and everything and then the guy who who said this, said, "Don't turn around." So the sergeant came in and he said, "What happened?" So, in fear of my life, knowing they probably kill me, I just told them and said, "Well, I got into a fight, four bloods jumped on me in the cell, and officer opened the gate and let me in," 'cause no telling, if I had told the sergeant what really happened, knowing them, they probably would have told me I was (inaudible) scared of my life, so I just said, "It was bullshit," I told them that and I said, you know, (inaudible), you know they said I had a seizure and, "Officer did it," and that's exactly what he told the sergeant, three stripes. He said, "Well, inmate was in the cell, four . . . it was four bloods and he used to be a Crip and they jumped on him, and opened the cell and trustees helped get off the cell, as you see, therefore, there was no blood in there. And he came up and we brought him up and he started having a seizure. He's an epileptic and I just put the cuffs on him so he wouldn't hurt himself."

Cornell:

Q. That's what the deputy told the sergeant?

[redacted]:
A. That's what the deputy told the sergeant?

Cornell:
Q. Okay.

[redacted]:
A. He come up with the story.

Cornell:
Q. That's now how it happened?

[redacted]
A. (Inaudible) and I told the sergeant and he . . . and he brought me to the hospital. They said, "What happened?" That's when they took pictures of me, and said, "What happened." I said, no I didn't tell them what really happened, because I know (inaudible).

Cornell:
Q. Okay, so the reason you made up the story about the bloods jumping you was because you thought the deputies would kill you if you told the sergeant the truth?

[redacted]
A. Yes.

Cornell:
Q. Okay. Were the deputies present when you told the sergeant that story?

[redacted]:
A. Yes, they were. There was a whole lot of them.

Cornell:
Q. Okay, now my understanding is that the sergeant videotaped you during an interview and asked you what happened, and you told him that again and that was later on after the deputies were gone. Did the sergeant talk one on one later on?

[redacted]
A. Not the sergeant, it was . . . no as a matter of fact, he didn't. The sergeant didn't talk to me at all. It was . . . they did not videotape me, they took pictures of my face, and it was so bloody.

Cornell:
Q. Did the sergeant interview you, though?

[redacted]:
A. No, he did not.

Cornell:
Q. Did the two striper interview you?

[redacted]:
A. No, he did not. He just brought me straight to the hospital.

Cornell:
Q. Okay, did they . . .

[redacted]
A. 'Cause they thought, you know, they said, they thought it was some bloods that jumped on me in the cell.

Cornell:
Q. Did they . . . did they ever videotape you making a statement that you know of?

[redacted]
A. No.

Cornell:
Q. They could of but you don't know, or would you know it?

[redacted]
A. Um, they could of but I . . . I . . . I . . . . I wouldn't know . . .

Cornell:
Q. Okay.

[redacted]
A. . . . because it was too busy (inaudible) like a bucket of water rinsing my face with all that blood on it.

Cornell:
Q. Let me . . . let me just recapture the story.

Nemeth:
Q. They wouldn't have videotaped you then . . . they wouldn't have videotaped you then, this would have been something separate. You don't remember being sat down like we're sitting down with you know and somebody talking to you with a videotape with the machine going on?

[redacted]
A. Oh, no. They didn't videotape me at all.

Nemeth:
Q. You're certain of that?

[redacted]
A. I'm positive. You know, (inaudible) all of them and see that make them look real good, because it's the way I see, because I don't make them, all I want to do is get to the hospital. If I'd of told all of them, "No they beat me like this here," the officers . . .

Cornell:
Q. Okay, so the sergeant never sat down with you later on and asked you what happened and then you told him the same story?

[redacted]
A. No.

Cornell:
Q. That never happened?

[redacted]
A. No, 'cause he said while he was checking me at the hospital, he said, "Are you willing to press charges on those four bloods that jumped on you? I said, "Yeah." "Can you I.D. them in lineup." I said, "Yes." And then what's happening, I said, "Aw, yeah, okay." "Oh, you put up a good fight, didn't you?" I said, "Yeah. I couldn't (inaudible), but the first one I want to deck. Beat you, the one that kicked you and everything, huh?" I said, "Yeah, 'cause I couldn't fight all those guys." I mean, what you know, there was a lot, because if you look in my cell, cell Baker #4, there is an old man, my cellie [redacted] which is in the hallway, you know, my buddy, and then my other buddy, his name is [redacted] in cell, in #11 . . .

Cornell:
Q. [redacted] from down 11.

[redacted]
A. Down 11. They can see everything.

Cornell:
Q. Do you know if [redacted] saw it?

[redacted]
A. Oh, yes he did.

Cornell:
Q. And how about the other guy?

Nemeth:
Q. 11 what? Baker 11?

[redacted]
A. Baker 11.

Nemeth:
Q. How's he going to see from Baker 11 (inaudible)?

[redacted]
A. [redacted] he heard, you know, he could see. Okay. Baker 4, okay, like, this is the . . . this is the module down there, right?

Nemeth:
Q. Yeah. This is . . . the freeway.

[redacted]
A. What happened was . . . in the corner, the freeway right there, right?

Nemeth:
Q. Uh-huh.

[redacted]
A. It happened right there.

Nemeth:
Q. It happened in front of 11, not in front of 4?

[redacted]:
A. Not in front of 11, no, right there, okay, right up. Okay, when you . . .

Nemeth:
Q. By the shower?

[redacted]:
A. Not by the shower but up when you go upstairs, you get ready to see the deputy right there, it happened right there in the corner, the shower is right here.

Nemeth:
Q. Okay, so how's 11 see all the way over there.

[redacted]
A. 11, they can hear, they can see everything. They can look through the bar and see down there, because, okay, this is the freeway right here.

Nemeth:
Q. Okay. All right.

[redacted]
A. Then plus my (inaudible), I told him [redacted] he was in the shower right there, he could see everything from the shower. He turned around and looked. I said [redacted]

Nemeth:
Q. Yeah, that's what I want to ask you, which [redacted] are you talking about? There's two [redacted] that are white guys that were in your cell.

[redacted]:
A. No. No. There was . . . the [redacted] he one they put in the cell with me, he was in the top bunk. My wife has his booking number. He's in the top . . .

Nemeth:
Q. You don't know his booking number, his last three?

[redacted]:
A. My wife has . . . has his booking number.

Cornell:
Q. What's . . . what's her name and her phone number so we can call her?

[redacted]
A. My wife?

Cornell:
Q. Yes.

[redacted]:
A. Her name is [redacted] (inaudible) [redacted]

Cornell:
Q. Okay.

[redacted]:
A. 'Cause he called my wife. I said, "Man, why . . . I said Lord, please . . . "

Burnett:
Q. Who was the guy who called your wife?

[redacted]:
A. [redacted] e was white.

Nemeth:
Q. There's two white [redacted] here.

[redacted]:
A. And then plus there was a Black [redacted], but the one that was white, (inaudible), you know, I said, "[redacted] w, they were killing me, [redacted], [redacted], my brother, please."

Nemeth:
Q. Are you telling me there was only one white [redacted] in your cell, or . . .

[redacted]:
A. There was only one white [redacted] in my cell.

Nemeth:
Q. All right. This says male, white, male white.

[redacted]:
A. Male, white. I told him, I told my wife.

Nemeth:
Q. [redacted] . . .

Burnett:
Q. He said in Baker 11.

[redacted]:
A. [redacted] is white.

Nemeth:
Q. [redacted] is white?

[redacted]:
A. Yes.

Nemeth:
Q. He's your . . . is he the guy you keep referring to as my cellie?

[redacted]:
A. As my cellie.

Nemeth:
Q. [redacted]Okay.

[redacted]:
A. [redacted]

Cornell:
Q. Okay, what's . . . what's the phone number to get a hold of your wife?

[redacted]:
A. It's [redacted]

Cornell:
Q. Now, what area code is that in?

[redacted]:
A. [redacted]

Cornell:
Q. [redacted] okay. And he called . . . [redacted]called your wife and told her what happened.

[redacted]:
A. Right, 'cause while they beating me, I'm telling you, he was in the shower and he seen everything. He looked . . .

Cornell:
Q. He's the one that saw everything from the shower?

[redacted]:
A. Right. He seen everything. He told . . . he was so frightened. He . . . I kept. . . kept telling him, I said, "[redacted]my brother, 'cause (inaudible) and we were real close, you know, with this white guy, you know.

Cornell:
Q. Let's do this, let's go over this . . . let's go over the story again. Let me recap it to you and you tell me if I'm correct at what you told me.

[redacted]:
A. Um-hm.

Cornell:
Q. Okay. You initially . . . were you initially in the cell?

[redacted]
A. Um. No, I was not in the cell.

Cornell:
Q. You were out of the cell.

[redacted]
A. Yeah.

Cornell:
Q. Okay, and you wanted to get the deputies attention, so he could give you your medication.

[redacted]
A. He . . . he had opened the cell.

Nemeth
Q. Yeah, that's what I was . . . you said, you were in the cell with the gate open.

[redacted]
A. I was standing . . .

Nemeth:
Q. Why did the gate open, do you?

[redacted]
A. I don't know why the gate opened?

Nemeth:
Q. Well, who was supposed to come out, anybody?

[redacted]
A. They didn't say nothing. They just opened the gate.

Nemeth:
Q. So you saw the gate open and you took the opportunity to step out, 'cause you wanted to get his attention for your medication?

[redacted]
A. Yeah, because they said that they was going to call me for my medication . . .

Nemeth:
Q. And you hadn't been called, so you were concerned, and you wanted to get out and get his attention.

[redacted]
A. Right.

Nemeth:
Q. Right.

[redacted]
A. So that was . . . "You all calling me," when the gates opened.

Nemeth:
Q. Okay. And that's why you started sweeping the row, you said, "Well, maybe if I'm out for awhile, I can kind of roam around a little bit and get his attention that way."

[redacted]
A. Right, and as soon as he opened the gate I went up there, right, to the officer that opened the gate. I said, "Officer, if you call me, I'm off the wind for my medication. They'll think 'cause they have me give them out . . . because I have phenobarbital because I'm an epileptic.

Cornell:
Q. Was he in the booth?

[redacted]
A. Yes he was in the booth.

Cornell:
Q. Do you know his name.

[redacted]
A. I think his name was Warden something. I can't even . . .

Cornell:
Q. Can you describe him for me?

[redacted]
A. Well, he's a white officer. He's about my height.

Cornell:
Q. How tall are you?

[redacted]
A. I'm 5'11"

Cornell:
Q. What color hair did he have?

[redacted]
A. His hair is Black.

Cornell:
Q. Was he wearing glasses, have a moustache?

[redacted]
A. Oh, he had a moustache.

Cornell:
Q. A moustache. Was he wearing glasses.

[redacted]
A. He wasn't . . . no he was not wearing glasses.

Cornell:
Q. How much does he weigh?

[redacted]
A. I would say about 170 lbs.

Cornell:
Q. And was he the only one in the booth at the time?

[redacted]
A. He was the only one in the booth.

Cornell:
Q. Okay.

[redacted]
A. I thought he was for me. Again, that's when [redacted] came out too. You know, [redacted] came out because he wanted to get some of those Sinequans. A Sinequan is like reds. They put you to sleep.

Cornell:
Q. Right.

[redacted]
A. But [redacted] kept saying, "You can't sleep." I said, "No, man, I can't sleep." He said, "Because, my wife, said to [redacted] can you give me some Sinequan." I said, "Yeah, I might be able to get you some Sinequan. I can ask, you know." And this Black guy, down the cell, he said, he sells some Sinequan, and it put you to sleep and everybody wants those when you can't sleep, but for a sandwich. At this time, I had a sandwich, and I said, "Wait, [redacted] can get you one, no prob– . . ." and he came out to . . .

Cornell:
Q. Okay, so the deputy . . .

Nemeth:
Q. What did you say this guy's name was in the booth again?

[redacted]
A. I think his name was Officer Warden . . .

Nemeth:
Q. Warden, or something?

[redacted]
A. Warden or something, I can't really remember. I didn't too much pay attention.

Cornell:
Q. Did he say anything to you over the P.A. system?

[redacted]
A. No he did not.

Cornell:
Q. Did he tell you to go back into the cell?

[redacted]
A. No, he did not.

Cornell:
Q. Did he tell you to go back into the cell?

[redacted]
A. No he did not.

Cornell:
Q. Not at all. Okay. So then you pick up the broom and you start sweeping and then he comes out of the blue?

[redacted]
A. Yeah. And then, okay, then my buddy, [redacted] right, [redacted] was gone, but my wife likes [redacted] right?

Cornell:
Q. Right.

[redacted]
A. They said, you know, "He in the shower." I said, "What happened, [redacted]

Cornell:
Q. Did the deputy put him in the shower?

[redacted]
A. Yes; he put him in the shower.

Cornell:
Q. Did you hear him?

[redacted]
A. Yeah.

Cornell:
Q. How did he do it?

[redacted]
A. He told him . . . he told him, "Get in the shower. You roaming around, you asshole, get in the fuckin shower."

Cornell:
Q. So [redacted] did.

[redacted]
A. Yeah, he put him in the shower, but he did not say nothing to me, and I said, "Hey, hey, Baker 4, give me," 'cause I went up there and they opened the gates, and my buddy [redacted] you know, he roaming, I have him a sandwich so he get them pheno– . . . so, you know, Sinequan.

Cornell:
Q. So he was going to go down and get the Sinequan from the other guy with the sandwich you gave him.

[redacted]
A. Yeah, with my sandwich I gave him, yeah.

Cornell:
Q. Okay, and then what does the deputy say to you? You're pushing the broom.

[redacted]:
A. He didn't say nothing.

Cornell:
Q. Okay.Then what happened next. He then . . . he then comes up to you . . .

[redacted]
A. No. No.

Cornell:
Q. . . . and (inaudible) in the face?

[redacted]
A. No, then while I was pushing the broom in the hallway, freeway, right?

Cornell:
Q. Uh-hm.

[redacted]
A. He said, "Hey, you," after he locks my buddy up in the (inaudible), I mean in the shower right there, right?

Nemeth:
Q. So everybody in the cell right now is just you and the deputy, is that right? Every other cell is closed, there's nobody else?

[redacted]
A. All the cells are closed.

Nemeth:
Q. It's just you and him on the freeway, right, of Baker Row? Is that right?

[redacted]
A. He was not on the freeway, he was up there . . .

Nemeth:
Q. You were up on the top by the phones, or whatever?

[redacted]
A. Yeah, you know where the phones are? He was standing right there.

Nemeth:
Q. Okay.

[redacted]
A. You see, if you go up, he was just standing right there. He didn't say nothing to him. That's why I was, what's going on? You know, and I said, why, you know, have me locked up in the shower. I'm walking off and I seen him. I'm looking at the booth. He seen me sweeping the (inaudible). You know, I said, "My buddy," he said, I said, "I sweeping here," and he said, I said, "Hey," he said . . . he said . . . "[redacted] he said, I said, "What," "Give me a blanket, I'm cold." He would tell you, I said, "Way back here in the cell." I mean in the shower, right there. The shower is at the end. Yeah. Roaming around when I went to get the phenobarbital. I said, "Okay, wait a minute, wait a minute, I'm going to get you a

blanket." I got my blanket out of my bed and a Baker pillow. That's what I said.

Cornell:
Q. So you went back in the cell?

[redacted]
A. No, the cell was closed then.

Cornell:
Q. Oh, you reached through the bars?

[redacted]
A. I reached through the bars and grabbed my blanket. My bunk was at the top.

Cornell:
Q. Took it over and gave it to him.

[redacted]
A. His bunk at the top in the back of me, a six man cell. I just took my blanket out of mine, you know, and I said, "Wait a minute, where's the blood back there, where you at, let me know now, 'cause he want to see you." [redacted] said, "No, he's not, come on," and I snuck him the blanket, so he wouldn't be cold.

Cornell:
Q. Okay. All right.

[redacted]
A. So, "Come here, [redacted] . ."

Cornell:
Q. Okay, we need to move on, 'cause we're . . . I want to get down to the . . . to the . . . okay, so then the deputy tells you to get up against the wall. At some point later on, he tells you this . . .

[redacted]
A. And I start sweeping again, and he said, "Come here, you, you . . ."

Cornell:
Q. Okay, and he comes over and tells you to get up on the wall.

[redacted]
A. He says, "Come, here, fuckin asshole, yeah, get up against this fuckin wall, you fuckin asshole."

Cornell:
Q. Okay.

[redacted]
A. I said, "Man, what you talkin about."

Cornell:
Q. Did you ever go up against the wall?

[redacted]
A. I went up against the wall and then he said, "You fuckin asshole." I said, Deputy (inaudible), wait

a minute, wait a minute, wait a minute man, wait a minute. (Inaudible). (Inaudible).

Cornell:
Q. Hang on. Hang on.

[redacted]
A. Okay, and then he said, "Oh, so he's a fuckin ding, huh." And then we started wrestling. I said, "Wait, come on man." I said, "Come on, come on," I said.

Nemeth:
Q. Hang on. Hang on. Hang on.

[redacted]
A. I said. (Inaudible)

Cornell:
Q. You go over, he tells you to go to the wall and you go over and then he pushes you into it.

[redacted]
A. Yeah, he pushed me to the wall. He said, "(inaudible) against the wall." And then I turned around and I said, "Get against the fuckin wall."

Cornell:
Q. So then he pushed you again.

[redacted]
A. He pushed me against the wall.

Cornell:
Q. How many times did he push you against the wall?

[redacted]
A. He pushed me . . . he pushed me like two times. I said, "Wait, sir, let me talk to you. I'm epileptic, you know, I'm dizzy."

Cornell:
Q. Did you ever obey his order like he told you to.

[redacted]
A. No, I did not, because he was taking off his handcuffs. He said, "Listen, fuckin asshole."

Cornell:
Q. Okay, so did he ever tell you to put your hands behind your back?

[redacted]
A. No, I didn't . . .

Cornell:
Q. He never did.

[redacted]
A. No, because I was . . .

Cornell:
Q. Did he tell you to?

[redacted]
A. Yeah.

Cornell:
Q. And you never did.

[redacted]
A. No.

Cornell:
Q. Why?

[redacted]
A. Because I was afraid he was going to beat me down. Why, I said, 'cause I said, "Wait a minute, sir." I said, "Wait a minute . . . wait a minute." I said, "Wait, wait. Why you get my buddy in the shower and you get my (inaudible) clothes and you want me back in there."

Nemeth:
Q. Okay. So at that point you would refer to yourself . . .

[redacted]
A. Yeah. Yeah, I would. I just want to go to my cell.

Cornell:
Q. If he had told you to go to your cell, you would have.

[redacted]
A. Yes, I would have. I said, "Just let me go to the cell, man," I said, 'cause they got me once before, and I was telling them, I said, "No. No. I'm not going to. Now, you get him in the shower, now I can't go in the shower with my buddy." I said, I just want to go to my cell, and he said, "What the fuck you doing out, you fuckin asshole." I said, "You seen me sir." I said, "I waved at you and you seen my sweeping." I tried to get your attention. You put my buddy in the shower. You closed my cell, so you won't let me get back in. That's why I was sweeping to get your attention, sir." I said, and I told him, "I'm not going to let you beat me any more. I did it once before, man, and I tried to tell you, I need my medication. He said, "I don't give a shit if you're fuckin with me." I said, "No, sir, stop it," and that's when he (inaudible) and he tied me with the handcuffs. You know . . .

Nemeth:
Q. He stuck what with his handcuffs?

[redacted]
A. He tried to get his handcuffs right, so . . .

Nemeth:
Q. His handcuffs are on . . .

[redacted]
A. See, that's when they beat you. If the handcuffs are on . . .

Nemeth:
Q. You expected once you got handcuffs on, you were going to be beaten, so that's why you weren't . . .

[redacted]
A. Right. That's why . . .

Nemeth:
Q. . . . following his direction to allow him to handcuff you.

[redacted]
A. Right. 'Cause, I tell you . . .

Nemeth:
Q. So what happened at that point.

[redacted]
A. And at that point, I said, "Come on, sir," and he said, "No." I told him, "Let me get in my cell."

Nemeth:
Q. Were you stirring and you're making all kinds of movements with your hands and body.

[redacted]
A. Yes.

Nemeth:
Q. The tape can't see that. I can see that. So what are you doing.

[redacted]
A. Okay. I'm struggling.

Nemeth:
Q. So what are you doing?

[redacted]
A. I'm . . . I'm struggling.

Nemeth:
Q. Are you against the wall, or you're struggling away?

[redacted]
A. No, I'm getting away from him. I'm trying to get out of there, so I can at least get down to that, at least the people can see me.

Cornell:
Q. Did you touch the deputy?

[redacted]
A. Yeah, I grabbed him.

Cornell:
Q. How?

[redacted]
A. I got him . . . he turned me around, and he said, "Come, here." I said, "No, let me go," I said, "Let me go." He said, "No."

Cornell:
Q. What did you have blown up?

[redacted]
A. I . . . I just had his hands.

Cornell:
Q. Had his hands?

[redacted]
A. Had his hands.

Cornell:
Q. Okay.

[redacted]
A. I said, "No, come on, let me go." I said, "No, man, you're not going to kill me." He said, "You fuckin asshole, I'm gonna get your fuckin ass."

Cornell:
Q. So at this time, you guys were both struggling?

[redacted]
A. Yeah, we struggling, huh?

Cornell:
Q. Did you ever grab him in a headlock?

[redacted]
A. Yes. You know, then we turned around and then he grabbed me, and tried to took me on, and I said, "No," and I got up.

Nemeth:
Q. You switched him around?

[redacted]
A. I switched him around and I grabbed him in a headlock. I said, "Well, if he's going to kill me, he's got to kill me, because . . ."

Cornell:
Q. Okay, were you hitting him at that time?

[redacted]
A. I did not hit him. I said, "Sir, I don't want to hurt you."

Cornell:
Q. And was he hitting you at that time?

[redacted]
A. Okay, when he had me in the headlock, he was punching me.

Cornell:
Q. Where was he punching you?

[redacted]
A. He was punching me in the stomach, cause he had (inaudible), and I said, "Wait a minute, no, forget this thing man, no," and I grabbed him and we wrestled and I grabbed him in the headlock. I said, "Sir, I don't want to hurt you, sir." I did not hit him. I said, "I don't want to hurt you. Just let me go in my cell, sir." I wish I could. "Come, on fucking asshole," and then let him go and then I ask him again, and I was holding him, I said, "Sir, I did not hit that officer. If I wanted to hurt him, I could have hit him." The first time when he told me, "Go up this way," I could have punched him.

Nemeth:
Q. All right, let me ask you a question, where is this struggle occurring, by the phone bank . . .?

[redacted]
A. Yeah, right there.

Nemeth:
Q. . . . in the same level where the officer's booth is, is that right, right outside where the phones are?

[redacted]
A. Right.

Nemeth:
Q. Below the phones or to the left or right?

[redacted]
A. On the top . . . okay . . . you know I'm Baker Row Freeway. All this did occur right there, you know, where his door is . . .

Nemeth:
Q. Right, where the door to the officer's booth is?

[redacted]
A. When you first come to (inaudible) and turn right there. I'm trying to give you an i– . . . over there . . .

Nemeth:
Q. By the stairs?

[redacted]
A. Yeah, right by the stairs.

Nemeth:
Q. But on that same level where the booth is.

[redacted]
A. Right there on the stairs, like I said.

Nemeth:
Q. Okay, so who's seeing this? So that's facing in front of the showers?

[redacted]
A. It's in front of the showers, right.

Nemeth:
Q. The way I see it, that was in front of the showers.

[redacted]
A. Right?

Nemeth:
Q. Was anybody hooting and hollering. I mean, was this obvious to a lot of people in the module, there's a big struggle going on with the deputy and there's no other deputies in there.

[redacted]
A. No. Didn't nobody say anything.

Nemeth:
Q. So really nobody was saying nothing to you. Did you think other people were seeing this?

[redacted]
A. It's obvious somebody had to.

Nemeth:
Q. Okay, what was your friend doing in the shower?

[redacted]
A. [redacted] . . [redacted] was looking.

Nemeth:
Q. He was locked in Baker Row shower, right?

[redacted]
A. Baker Row shower.

Nemeth:
Q. This was easily occurring directly in front of him, right?

[redacted]
A. Right.

Nemeth:
Q. And what did he say?

[redacted]
A. He didn't say nothing. He was just looking.

Cornell:
Q. How do you know he was looking?

[redacted]
A. How I know he was looking? Because he's going to have to look at me, 'cause he knew I was struggling, right? And he was standing right there looking the whole time.

Cornell:
Q. Did you look up and see him looking?

[redacted]
A. No, I was just strug– . . . struggling with the deputy.

Cornell:
Q. So you weren't paying attention to [redacted] you were paying attention to the deputy.

[redacted]:
A. No [redacted] was looking 'cause (inaudible) we struggled, but then I said, "Sir, I don't want to fight, sir, please. I don't want no fight, just let me go to my cell."

Cornell:
Q. Okay, once, you had him in the headlock, did he get away from you?

[redacted]
A. I let him go.

Cornell:
Q. And then did you then again later grab him again?

[redacted]
A. I let him go. He tried to grab me and he tried to punch me and I grabbed him and when the officer came in here and started beating me down, I hadn't put him back, I was just holding him. You know, like he turned around and was holding back his back . . .

Nemeth:
Q. Like a bear-hug type thing, from behind . . .

[redacted]
A. . . . from behind . . .

Nemeth:
Q. . . . but your face was towards his back?

[redacted]
A. Right, and I was holding his head.

Nemeth:
Q. And where were your arms around his chest, or his face, or what?

[redacted]
A. Around his chest or his face, or what?

Nemeth:
Q. And were his arms inside of your arms then?

[redacted]
A. Around his chest and his (inaudible).

Nemeth:
Q. And were his arms inside of your arms then?

[redacted]
A. Yeah, holding (inaudible).

Nemeth:
Q. So a complete bear hug, you had him in line?

[redacted]
A. It had been a while (inaudible).

Cornell:
Q. Did you guys fall to the floor at some point?

[redacted]
A. No, we cannot fall on the floor. At this point, that's when all the other officers arrested me and grabbed me and just started beating me down, and [redacted]ookin . . .

Cornell:
Q. Did you let go of the deputy you had a hold of?

[redacted]
A. Yeah, I let go. I didn't have no intention . . .

Cornell:
Q. Did the two of you ever fall to the floor at that point, and so then the other deputies run in and they start hitting you?

[redacted]
A. Right, 'cause, you know, I was telling them, "Sir, please, please."

Nemeth:
Q. How did the other deputies find out about it?

[redacted]
A. I don't even know.

Nemeth:
Q. You don't know.

[redacted]
A. 'Cause then you get back who's on the phone . . .'cause all the other trustees and everything was in the cell.

Nemeth:
Q. Um-hm.

[redacted]
A. That's what I don't know how did the officers find out.

Nemeth:
Q. You know those little phones they have in there, did he use that or . . .

[redacted]:
A. He didn't get a chance to go to that booth.

Nemeth:
Q. Um-hm.

[redacted]
A. We was wrestling. We weren't fighting. We was wrestling. I was just trying to let him know, "Look I don't want no problem, (inaudible)."

Nemeth:
Q. Did a whole bunch of deputies come at once or the first one . . .

[redacted]
A. Yeah. [redacted] old my wife (inaudible) when they beat me, "Oh, oh, please don't kill me." Right there, [redacted] old . . . he called my wife, so, "[redacted] my . . . my brother, call my wife, 'cause my envelope, my address and my telephone number is on my envelope, 'cause the picture of my wife is on the (inaudible) in my cell (inaudible), four white guys, one Mexican, and one Black man, he's an old man, 60 years old, and the only Black man, no, there's another Black man in there, a young man of 27 years old and pops is 60 years old and 3 whites, and okay, okay, yeah, three whites, and one Mexican in the bunk in that cell.

Cornell:
Q. Okay, so then all the deputies come and they start hitting you?

[redacted]:
A. Yeah, I didn't know where they come. That's what surprised me. How did he call these other officers when he did not get a chance to go into the booth.

Cornell:
Q. Maybe, he called before he came out.

[redacted]:
A. He probably did.

Cornell:
Q. Maybe.

[redacted]:
A. That's what I didn't understand

Cornell:
Q. I'm just guessing, I don't know.

[redacted]
A. (Inaudible).

Cornell:
Q. Okay, so then they hit you. How many of them, you think.

[redacted]
A. (Inaudible). [redacted] called. I didn't know how many were.

Cornell:
Q. Okay. What did they hit you with?

[redacted]:
A. They didn't hit me with nothing. They came in with their hands and they grabbed me. All of them grabbed me and they put me . . . threw me down on the ground.

Cornell:
Q. Okay, and what point did you get the cut on the left (inaudible).

[redacted]:
A. Right here, 'cause he grabbed my head. While he was grabbing my head, he said, "Come on, all right, come on, one, two, three, bam, bam."

Nemeth:
Q. When you say one, two, three, was somebody counting one, two, three?

[redacted]
A. Yeah, they was hauling on my head. I could see them.

Nemeth:
Q. Did they grab a hold of your hair?

[redacted]:
A. Yeah, the back of my . . . yeah, I was face down. They said, "One, two, three, bam, bam, bam." They was socking on it, and I said, "Oh, Lord, please don't kill me, please, please, hut . . ."

Nemeth:
Q. How many hands did you feel in your head, one hand?

[redacted]
A. There was a whole lotta . . . there was a whole lotta.

Nemeth:
Q. Like multiple people were holding and smashing your head.

[redacted]
A. Like smashing me like a rock.

Cornell:
Q. How many times did they hit your head in the floor, would you say?

[redacted]:
A. They did, I would say, about three times. Bam, bam, bam, and I said, "Lord, don't kill me, please don't kill me, please, please."

Nemeth:
Q. When they counted one, two, three, was that . . . does he count while he was smashing your head down, or did they count one, two, three and then smash your head down?

[redacted]**:**
A. No, they grabbed it, one, two, three, and then said, "Bam, bam, bam," right there.

Nemeth:
Q. Okay.

[redacted]
A. I said, "Oh, Lord." I said, "[redacted]please, man, call my wife, call my wife." (Inaudible)

Nemeth:
Q. He's referring to a cut over your left eyebrow near the temple. How many stitches you have in there, do you know?

[redacted]**:**
A. I don't know how many stitches they put in there . . .

Nemeth:
Q. Stitches in there.

[redacted]**:**
A. . . . But it wouldn't stop bleeding.

Nemeth:
Q. Well, were you bleeding from anywhere else, do you know, or did you get any other cuts as a result of the incident.

[redacted]**:**
A. This is the only one right here. That's where . . .

Nemeth:
Q. And that's where the blood . . . you said you were swimming in your blood. Is that what you meant by that?

[redacted]
A. I was . . . it was laid open. He had to sew it up.

Nemeth:
Q. The blood flowed from that cut?

[redacted]**:**
A. It was, and because of my . . .

Nemeth:
Q. All right, what happened after one, two, three, then what happened then?

[redacted]
A. They stick on, pow, they did it again, bam, bam, bam.

Nemeth:
Q. So three times is what you're saying it happened.

[redacted]
A. Why, they did it more than one time, and they said, "Let on," and I couldn't see, I had my head down and . . . "Okay, okay." They at this time opened my legs. I (inaudible). Bam, bam, I felt it kicked me in my nut. Bam. Bam. "Oh, oh, oh."

Nemeth:
Q. How many kicks do you feel in your nuts?

[redacted]
A. (Inaudible) between seven and about fifteen kicks.

Nemeth:
Q. Between seven and fifteen.

[redacted]
A. I mean he was kicking the shit out of me.

Nemeth:
Q. You said you felt your legs open up. What does that mean?

[redacted]
A. They both . . . they open . . . okay, I'm going to say it, right?

Nemeth:
Q. You're face down and you're . . .

[redacted]
A. Yeah, I'm face down.

Nemeth:
Q. . . . and you're showing that your, what was it, your left cheek would be on the ground? Is that right?

[redacted]
A. Yeah, my left cheek on the ground, that's what I say, right there, that's where all that puddle of blood.

Nemeth:
Q. Uh-huh.

[redacted]
A. And then I felt . . .

Nemeth:
Q. Was somebody holding your head down like that?

[redacted]
A. Yeah, they held my head down with their feet.

Nemeth:
Q. So, they had their foot on the back of your neck . . .

[redacted]
A. They had their foot in the back of my neck and they made it down, right there where the blood was coming off, right there.

Nemeth:
Q. Okay, and what's this about your legs opening?

[redacted]
A. They had to open my legs (inaudible). I felt somebody. . . they had to open my legs, right, 'cause they did not have my legs hitting and kicking.

Nemeth:
Q. You had your legs closed.

[redacted]
A. My legs, yeah, they was closed, and I said, "No, stop," and they opened my legs and I felt (inaudible), pow, pow. I said, "Aw, aw, they kicking me."

Nemeth:
Q. You felt that somebody grabbed your ankles with their hands or . . .

[redacted]
A. Or feel with their hands . . .

Nemeth:
Q. . . . and pull . . .

[redacted]
A. . . . and pull my legs open.

Nemeth:
Q. You feel the hands still on your legs?

[redacted]
A. I felt the hands.

Nemeth:
Q. Where . . . where was it on your legs, by your knees, or by your ankles, by your feet, or . . .

[redacted]
A. Right here.

Nemeth:
Q. Somebody grabbed you by your ankles?

[redacted]
A. Yeah, I couldn't see, 'cause they had the other one. I don't know who it was that had my head.

Nemeth:
Q. But is that what it felt like? Somebody was holding your ankles . . .

[redacted]:
A. Yeah, and they had my legs open.

Nemeth:
Q. One hand on each ankle or more than one hand.

[redacted]:
A. Yeah, I could feel about two hands on each leg opening up and . . .

Nemeth:
Q. They opened your legs wide and then you felt some . . .

[redacted]:
A. I felt them kicking.

Nemeth:
Q. . . . kicks. You said that between 7 and 15 kicks.

[redacted]:
A. 7 and about 15 kicks. I said, "Aw, no . . ."

Nemeth:
Q. Now where did those kicks land, on your thighs or on your legs or on your testicle area . . .

[redacted]:
A. On my balls,.

Nemeth:
Q. On your balls. Now, you want to show us your injury again?

[redacted]:
A. On my balls, right there. On my balls.

Nemeth:
Q. Um-hm.

[redacted]:
A. And do you know something? And then they put the handcuffs around . . .

Nemeth:
Q. Did you have any problem with your testicles, or anything like that before?

[redacted]:
A. No.

Nemeth:
Q. Have you ever been treated for any problems with your genital area or anything . . .

[redacted]
A. No.

Nemeth:
Q. Forthcoming. You had never had any problems?

[redacted]
A. No.

Nemeth:
Q. So tell me now after the kicks what happened.

[redacted]
A. They handcuffed my feet and hog-tied me back like that, I can't move.

Nemeth:
Q. Were your hands handcuffed yet, or not?

[redacted]:
A. My hands were handcuffed.

Nemeth:
Q. At what point did your hands get handcuffed?

[redacted]:
A. After they had my had my head down . . .

Nemeth:
Q. Um-hm.

[redacted]:
A. (Inaudible), "I said to move . . .

Nemeth:
Q. Before or after

[redacted]:
A. And he kept telling me, "Turn your ass around."

Nemeth:
Q. Before or after the kicking?

[redacted]:
A. Before the kicking.

Nemeth:
Q. You were handcuffed before the kicking?

[redacted]:
A. Yeah, I was handcuffed before the kicking. After he put the handcuffs in back of me and one of them had feet on the back of my head.

Nemeth:
Q. Uh-huh.

[redacted]
A. (Inaudible), "Don't you fuckin move." That's when I felt kicking me, pow, pow, oh, oh." I was hollering. I kept telling [redacted] "[redacted] help me."

Nemeth:
Q. Were you resisting their efforts to handcuff you? Earlier you expressed something like that.

[redacted]
A. Okay, but, 'cause I was like saying, they were beating me down when I came back. Okay, when they had backin off, so, I see them coming at and I said, "Oh, my God," and then I let him go.

Nemeth:
Q. You let the other deputy go.

[redacted]
A. Yeah, I let him go, I was just holding him.

Nemeth:
Q. And that's Warden, or whatever you think his name is, is that right?

[redacted]
A. Warden, I believe that was his name. But you can time it between 12 and 1 o'clock.

Nemeth:
Q. All right, we'll find it, go ahead, so let him go. . .

[redacted]
A. Let him go and that's when they wrestled me. They threw me down on the ground hard. They said, "You son of a bitch, bam, bam, bam, bam.

Nemeth:
Q. Tell me how your hands got handcuffed. Was it after your head got bounced on the ground?

[redacted]
A. I was a little holding on to the bars, "Come on, please don't kill me."

Nemeth:
Q. Hold on to what bars?

[redacted]
A. I was holding on to the bars and they kept on bam, bam.

Nemeth:
Q. What bars?

[redacted]
A. The bars . . . okay, you know where the south bars . . . okay if you go into the module. As soon as you go into one module, right there you see one phone booth, that's . . . the office, the door right here. Okay, see . . . then right right here you have Baker row at the bottom and you have D row.

Nemeth:
Q. What bars were you holding on to?

[redacted]
A. The cell bars.

Nemeth:
Q. . . . a couple of steps that you (inaudible). There is the entry level where you walk into the module and that's approximately . . . I think 4400, is that correct.

[redacted]
A. 4400, yes.

Nemeth:
Q. You . . . you told me earlier that the scuffle occurred on the same level as when you walk in the door to the module from outside the hallway and at the same level where the officers booth is.

[redacted]
A. Right. That is correct.

Nemeth:
Q. Now, how did you get downstairs to hold onto the bars in front of the shower?

[redacted]
A. I did not . . . I did not get downstairs. We were . . . we were scuffling right there on that level.

Nemeth:
Q. The shower is on that same level?

[redacted]
A. Yeah, 'cause, okay, as soon as you . . .

Nemeth:
Q. The minute you walk, that's right . . . okay.

[redacted]
A. . . . you can see . . . you can see the shower. The shower is in the front.

Nemeth:
Q. Yeah, so you're holding onto the shower bars right in front of [redacted]

[redacted]
A. Right in front of [redacted]

Nemeth:
Q. All right is this before or after your head got pushed out of the shower.

[redacted]
A. They was pushing me. I was holding onto the bars and they was pushing me. They finally . . . then they got me.

Nemeth:
Q. [redacted] was talking about your head. You said, one, two, three . . . were your hands holding onto the bars then?

[redacted]
A. Yeah, I was holding the bars. I said, "No, please." Bam, bam. They got me . . . bam, bam, They finally got my hands loose. I mean, they put them back.

Nemeth:
Q. They finally got your hands loose and you were resisting holding onto the bars.

[redacted]
A. Yeah. Yeah.

Nemeth:
Q. And then they handcuffed you?

[redacted]
A. Yeah, and they put the handcuffs on me.

Nemeth:
Q. And is that when you felt your ankles get grabbed (inaudible).

[redacted]
A. No, then they put the cuffs on me and then bam, one, two, three, and then bam, bam, bam after they handcuffed me.

Nemeth:
Q. Oh, so your head was hit after you got handcuffed.

[redacted]
A. It was intentional. They had intentions of knocking me out and made sure I wouldn't move. They said, "That's all, asshole." He said, "No, he hasn't got enough." Bam, bam, bam. I said, "[redacted] what are you looking at everything." I'm looking at [redacted] with this eye, 'cause this eye was closed. All right look, 'cause I'm not going to see it, and then when they handcuffed me, I could see it, right from the back of me. (Inaudible) kicked me in my balls. Bam, bam, bam . . . I looked at [redacted]

Cornell:
Q. Do you know who it was that kicked you?

[redacted]
A. I don't know. I couldn't see. I was lying face down.

Cornell:
Q. You were lying face down and they came up from behind you and spread your feet apart and kicked you in the balls 7 to 15 times, is that your story?

[redacted]
A. Yeah, they kept on kicking some more. I couldn't see, I was lying face down. I couldn't' see it. I just got up. I mean that [redacted] tell me that my wife . . .

Cornell:
Q. Before you told us that someone reached over and actually grabbed your testicles and squeezed them.

[redacted]
A. Yeah, I felt someone like this (inaudible noises).

Nemeth:
Q. Before or after the kick?

[redacted]
A. No, after the kick.

Nemeth:
Q. After the kick.

[redacted]
A. I felt somebody that bam, bam. I felt someone that . . .

Cornell:
Q. Were they saying anything to you at this time?

[redacted]
A. No.

Cornell:
Q. Weren't saying a word?

[redacted]
A. Uh-uh.

Cornell:
Q. Okay, so they kicked you and then they reached down and grabbed your testicles and squeezed them.

[redacted]
A. I felt a hand. I couldn't see . . .

Cornell:
Q. Why?

[redacted]
A. 'Cause they had my head. Somebody had . . . they still had their foot down on my back . . .

Cornell:
Q. Okay.

[redacted]
A. . . . and then one of them . . . [redacted] was . . . I said, "Get your. . ." and then [redacted] right. I told you he seen everything and then he turned around. They said, "Get your fuckin head against the fuckin shower, turn your head."

Cornell:
Q. That's what they said to [redacted]

[redacted]
A. Yeah. "Fuckin asshole." He was there all the time. He was standing right here at the corner of the shower, but he seen everything.

Nemeth:
Q. You know what's up with [redacted]ight now? This [redacted] . . this [redacted]you're talking about, white [redacted] . . right?

[redacted]
A. Uh-huh.

Nemeth:
Q. Do you know what's up with him right now?

[redacted]
A. I don't know.

Nemeth:
Q. You don't know. You haven't seen him since the . . .

[redacted]
A. No, because I told him to call my wife. 'Cause I don't know if I might not see her.

Nemeth:
Q. Do you know that he called your wife?

[redacted]
A. Yeah, 'cause my wife told me.

Nemeth:
Q. 'Cause you've talked to her since.

[redacted]
A. Yes, sir, I have.

Nemeth:
Q. And what did. . . what did she say that he told her?

[redacted]
A. She said, okay, I told him why the beat me. I said, when my head down and bleeding, I told him, call. I said, "[redacted]my brother please."

Nemeth:
Q. All right. I got all that part, "Call my wife."

[redacted]
A. He said. Okay. I called my wife before the surgery. She said, "[redacted]alled, and he said he seen everything. He said it scared him." He told her why they scared him. He said, "They had your husband, [redacted]Ms. [redacted]na'am, and they was beating him." He said, "First they were harassing him." He

said, "Your husband, he didn't really, he didn't really, he didn't try to fight them, he was just saying he didn't want to go to his cell." He said, "They were beating him, and there was so much blood it scared me."

Nemeth:
Q. Right. Did she say . . .

[redacted]
A. And he . . .

Nemeth:
Q. . . . did [redacted] say where he was when he called her?

[redacted]
A. Yes.

Nemeth:
Q. He was still at 4400?

[redacted]
A. No, he was in his cell.

Nemeth:
Q. He was in his cell?

[redacted]
A. 'Cause see . . . there was Baker every row, and Baker row even the top ones.

Nemeth:
Q. No, what I'm saying is he didn't even use a phone in his cell. He used a phone from somewhere and do you know where he was ? Was he still at 4400, do you know, or did he say where he was?

[redacted]
A. He had to.

Nemeth:
Q. You don't know, though.

[redacted]
A. No, he was in 4400. He had to in 41 . . . in 4100 he had to. I don't know exactly.

Nemeth:
Q. Let me ask you this. Did your wife tell you when he called her?

[redacted]
A. She said, as a matter of fact he called her that same night.

Nemeth:
Q. What time?

[redacted]
A. I don't know exactly but she told me. She said, "Yeah, [redacted] your friend [redacted] he white

guy," she said, I had his book . . . his booking number. He told me. She said, "Baby, what is you trying to do, is you trying to get yourself killed?"

Nemeth:
Q. She was talking to you.

[redacted]
A. She was talking to me. I said, "No, baby, I wasn't trying to kill myself." I said, "Look it, sweetheart, I will not try to get myself killed. (Inaudible) and I'll just tell them I want to go back to my cell, baby, they haven't given me my medication in three days, and as the result of this I had a seizure and (inaudible) my medication."

Nemeth:
Q. So, that's why you sat there with your cell and your gate open.

[redacted]
A. Yeah.

Nemeth:
Q. That's what started this whole thing.

[redacted]
A. 'Cause he told me. . . Right.

Nemeth:
Q. Okay.

[redacted]
A. Yes.

Cornell:
Q. So after all this is done, then they untied your feet?

[redacted]
A. Right.

Cornell:
Q. And your hands and then they took you to the clinic?

[redacted]
A. Right. I'm handcuffed and (inaudible). I can't move.

Cornell:
Q. Okay, let's . . . let's deal with the incident before where you said something that . . .

Nemeth:
Q. Is that the end of this one, though? That's the end of this one.

[redacted]
A. Yeah. Yeah. That's the end of that one.

Cornell:
Q. How did you get the scratches above the right eye? How did that happen?

[redacted]
A. Right here?

Nemeth:
Q. And this.

Cornell:
Q. And you got a little bruise, it looks like your other cheek, how did that happen?

[redacted]
A. Oh, when they was hitting me.

Nemeth:
Q. It's all from this incident?

[redacted]
A. It's all from this incident.

Nemeth:
Q. Were you punched in the face? You're making a fist and a punching motion?

[redacted]
A. Yeah. Yeah, 'cause it's like they was trying to grab me in my nose . . . my nose was swollen when I got here.

Nemeth:
Q. Yeah, I see some lesions . . .

[redacted]
A. And I . . . he grabbed me like . . . it seemed like though they was trying to . . . they was punching me on my head and . . . (Inaudible).

Nemeth:
Q. This is when your hands were on the bars?

[redacted]
A. Yeah. You know, and, you know, I was trying to keep . . .

Nemeth:
Q. So you were punched also?

[redacted]
A. Yeah, they punched me, you know, and I was trying . . . and I was holding my head.

Nemeth:
Q. Let me ask you this one quick question. Could you identify any of the deputies that applied some of these blows and force to you? Would you recognize their faces?

[redacted]
A. Oh, yes, I can.

Nemeth:
Q. You can? All of them or one of them, or some of them?

[redacted]
A. All of them.

Nemeth:
Q. All of them.

[redacted]
A. Because after I had my son came in there, I was laying on my blood on [redacted] (inaudible) and he was telling the story, but see when the sergeant came in there, the three stripe sergeant, first the two stripe came in there. Right?

Cornell:
Q. Senior.

[redacted]
A. Oh, you think I don't know. Oh, I know him real good, all of them. 'Cause the same one with the two stripe, when an incident happened on Thursday at the clinic . . .

Nemeth:
Q. Well, let me state . . . the first day . . . real quickly okay?

[redacted]
A. Okay.

Nemeth:
Q. What . . . you didn't see the faces until afterwards, you're in your blood, your handcuffed, you're hog-tied . . .

[redacted]
A. I'm hog-tied.

Nemeth:
Q. . . . and then you're looking around who's present. Is that right?

[redacted]
A. Right. I'm being hog-tied.

Nemeth:
Q. Okay, how many people were present?

[redacted]
A. Oh, man, I'll . . . Sir, I'll have to say about at least about 15 deputies.

Nemeth:
Q. 15. How many . . .

[redacted]
A. And they (inaudible)

Nemeth:
Q. How many . . . how many people do you think hit you?

[redacted]
A. Sir, ah . . . Sir, ah, [redacted] old my wife it was over 10 deputies.

Cornell:
Q. We're not concerned what [redacted] said, though . . .

Nemeth:
Q. I'm asking you. Do you remember? What do you remember?

[redacted]
A. How many? When I was faced down? I couldn't tell you.

Nemeth:
Q. Well you said you were struggling and all of a sudden a whole calvary showed up. You said a whole bunch of deputies showed up.

[redacted]
A. Okay. Okay. With this one, the first time, okay, I (inaudible) right?

Nemeth:
Q. Right.

[redacted]
A. And I seen a whole lot of them come in here.

Nemeth:
Q. How many is a whole lot, do you know?

[redacted]
A. I talkin about . . . about 10 or 20, but there was a whole lot of them.

Nemeth:
Q. And let me ask . . . you know, I realize its probably hard for you to identify with your head down, face down, but do you have any idea, an approximation of how many people were involved in holding you down, and trying to handcuff you and with your legs and all that?

[redacted]
A. Definitely over 7 or 8 of them.

Nemeth:
Q. 7 or 8.

[redacted]
A. 'Cause I seen so many coming in.

Nemeth:
Q. Now you're handcuffed, you're turned over and you're looking around and how many do you see now?

[redacted]
A. Oh, I see about 15 and I seen two striped. I don't know if he's a sergeant or whatever. Then a three striped, I seen him. While I looked like there with my eyes closed, all this blood.

Nemeth:
Q. They weren't involved in hitting you, though, the two striper and the three striper?

[redacted]
A. No. No. No. They weren't involved.

Nemeth:
Q. All right. Anything else you want to add on this topic that you believe was done wrong to you in this incident?

[redacted]
A. I would like to say that, "Yes, from day 1, when I first got arrested . . ."

Nemeth:
Q. We're going to get into that in a minute.

[redacted]
A. Okay. Okay.

Nemeth:
Q. Anything on this incident.

[redacted]
A. Um.

Nemeth:
Q. That's about it, or?

[redacted]
A. That's . . . that's it, sir.

Cornell:
Q. Is it fair to say, though, that you don't know who or do you know who actually kicked you in the groin?

[redacted]
A. No, I don't.

Cornell:
Q. You don't know?

[redacted]
A. I couldn't see.

Cornell:
Q. Okay, so you don't know if it was one deputy, two, five, ten. You have no idea who it was because you were facing the other way, right?

[redacted]:
A. Well, sir, it was . . . I mean the way I felt, a bull kicking me in the balls, right?

Cornell:
Q. Um-hm, yeah.

Nemeth:
Q. Right.

[redacted]:
A. It definitely was one.

Cornell:
Q. Well, we know that. What I'm saying . . . what I'm saying is that it could have two or three and you would . . . or it could have been just one, right?

[redacted]:
A. Well, it could've . . . all I have to say, sir, according to the way the left testicle was damaged, I . . . I . . . I had to say one . . . I . . . I . . . I can't really say (inaudible) . . .

Nemeth:
Q. Okay, here's the way (inaudible) can identify that. Do you remember how much time elapsed between each kick or blow to your testicle area? I mean, was it one after an other, boom, boom, boom.

[redacted]:
A. Yeah.

Nemeth:
Q. Or was it one, two, and then a few minutes for a pause and then a couple of more . . .

[redacted]:
A. No. No.

Nemeth:
Q. . . . and with rapid succession, bang, bang, bang, bang.

[redacted]:
A. No. Can't do that. (Inaudible)

Nemeth:
Q. [redacted]'s know to . . . all right take it easy . . . so it was pretty rapid. So does that factor . . .

[redacted]:
A. Okay. (Inaudible)

Cornell:
Q. I said, you don't need to demonstrate it. Just tell us, okay?

Nemeth:
Q. Does that . . . does that fact lead you to believe it was one individual kicking?

[redacted]
A. Yeah.

Nemeth:
Q. 'Cause it was too fast for some people to take turns, or what do you think?

[redacted]
A. I think it was one.

Nemeth:
Q. You think it was primarily one individual kicking?

[redacted]
A. I think it was one.

Nemeth:
Q. And then . . . and then one . . . at least one person holding each leg.

[redacted]
A. No, it was too rapid like for somebody to, okay, 'cause I felt two hands on both of my legs. It was too rapid for somebody to just open them up like that to have them splits, it wasn't like that. It was like a "boom."

Nemeth:
Q. Um-hm.

[redacted]
A. It was like a flat "boom" and (inaudible). My doctor told me, right, that my . . .

Nemeth:
Q. You mean the doctor here, is that what you're saying? Your doctor?

[redacted]
A. My doctor here. (L.C.M.C.)

Cornell:
Q. You know his name.

[redacted]
A. The doctor that had me move my left testicle.

Cornell:
Q. Yeah, what's his name, do you know?

[redacted]
A. Ah . . .

Nemeth:
Q. That's okay. That's who you're talking about?

[redacted]
A. Yeah. You know what he told me?

Cornell:
Q. What?

[redacted]
A. He said, "Okay, your left instrument fractured"

Nemeth:
Q. He said what?

[redacted]
A. My left nut, technical, I can't say it.

Nemeth:
Q. Testicle.

[redacted]
A. Testicle. Left testicle. This one.

Nemeth:
Q. Was what?

[redacted]
A. Was fractured.

Nemeth:
Q. Fractured. Okay.

[redacted]
A. But, you know what he told me when he came to me in the room, after the surgery?

Nemeth:
Q. Um-hm.

[redacted]
A. He said, "Wait, you know, it was smashed, it was all mushed up." 'Cause at first he said, he said, "I might can repair it, but if it's too bad, I might have to take the whole nut out." The whole technical, you know, testicle.

Nemeth:
Q. Um-hm.

[redacted]
A. Whole nut, I said, "Well," I said, "Well, doc, I'd rather you just take the whole thing out." He told me, I said, 'cause I told him, I said, "Now, you gonna let me see it." He told me it was smashed up.

Cornell:
Q. Did you see it?

[redacted]
A. I did not see it, but my doctor told me personally.

Cornell:
Q. Yeah.

Nemeth:
Q. Okay. Did he tell you what he thought that was all about or anything like that?

[redacted]
A. No.

Nemeth:
Q. Okay, we'll be talking to the doctor so don't worry about it.

[redacted]
A. No. He told me. I said, "What."

Nemeth:
Q. I wanted to ask you a question about the two striper. Did you complain to the two striper when they showed up. "Hey, I've been beaten," or anything like that or did you make any complaints at that time?

[redacted]
A. No, they said, "What happened." I said, "Also. . ."

Nemeth:
Q. Who said, "What happened?"

[redacted]
A. The . . . the . . . the one, two striper. He came in there right . . . I know him.

Cornell:
Q. What's his name?

[redacted]
A. Oh . . . oh . . . it's corporal . . . well, he's . . he's an older guy.

Nemeth:
Q. What's he look like? Older guy? Black? White?

[redacted]
A. He's an older guy, short, he's white. He's short, with blond hair. I know I forgot his name but I'll know him when I see him and I saw him, with three stripes.

Nemeth:
Q. Okay, and the two striper asked you . . .

[redacted]
A. They even asked some deputies what happened. I said, "Sir, please don't," I said, "Please," You know, I was covering up the story because I was afraid. I said , "Please don't let those bloods hit me." I said, "Sergeant, the deputies saved my life. Those bloods when they beating me . . . they beating me to

death, he opened the cell door," which was a lie, I had to cover it up. I wasn't going to tell him his deputy beat me.

Nemeth:
Q. Why were you lying?

[redacted]
A. Why was I lying, 'cause . . .

Nemeth:
Q. Why were you covering for the deputy?

[redacted]
A. Because I . . . I was afraid that if I had of told him that his deputies beat me, no telling what they might have done. It was all white deputies and I was afraid they might just, 'cause if I remember they had killed somebody and just thrown them down the elevator. I was afraid for my life.

Nemeth:
Q. Well, the Sergeant and the two . . .

[redacted]
A. I was afraid.

Nemeth:
Q. . . . striper were standing there right there. Were you afraid they were going to attack you right then and there, or later on at some point.

[redacted]
A. No. After the incident they asked the deputies what happened. I was afraid. The only thing I wanted to do is get to this hospital.

Nemeth:
Q. Um-hm. Get treated for your injuries.

[redacted]
A. That's all I want.

Nemeth:
Q. So you're saying that's the reason you made up this story about the "bloods." There were no "bloods" in your cell, is that right?

[redacted]
A. No.

Nemeth:
Q. You, were one of the two only Black people in your cell?

[redacted]
A. There was me, a Black guy, [redacted] myself . . .

Nemeth:
Q. Two Mexicans and two white guys, right?

[redacted]
A. No, it's one, two, and (inaudible) . . .

Cornell:
Q. All right we got all that, okay.

[redacted]
A. And an old man, he is old.

Nemeth:
Q. Did . . . you never did tell the actual true story, then, is that right?

[redacted]
A. Yeah . . .

Nemeth:
Q. Whose the first person you're telling the true story to?

[redacted]
A. The first person?

Nemeth:
Q. Yeah, that you told . . . whose the first person you told what actually happened?

[redacted]
A. My doctor.

Nemeth:
Q. Your doctor. Which is this doctor here that treated you and did the surgery on you . . .

[redacted]
A. He said. Yeah, he said, "What."

Nemeth:
Q. He said what? "What happened to you."

[redacted]
A. He said, "What happened to you." I said, you know, I said, "Well, doc, you want me to tell you the truth, I'll . . ."

Nemeth:
Q. What.

[redacted]
A. I . . . I . . . the doctor said, "What happened, I notice swelling."

Nemeth:
Q. Okay. Will you . . . let me ask you this. You were brought here for the cut on your head. You know, after you were handcuffed and everything, you were taken to the clinic at Central Jail and they said, "Let's send you here to be examined." Do you know that?

[redacted]
A. Right.

Nemeth:
Q. And you rode in the ambulance over here, right?

[redacted]
A. Right.

Nemeth:
Q. Okay, did you complain to anybody at the hospital about your testicle problem or being kicked in the nuts, I mean not the hospital, the clinic at Central Jail?

[redacted]
A. No. The only time . . . okay, they brought me in for my head injury, right? Now, when I got in here, the doctor was examining and everything and he was moving and so he tested my stomach. I said, then when he tested my nuts, I said, "Doc, Doc, no, Doc."

Nemeth:
Q. Okay, Nobody did that though at the clinic though, right?

[redacted]
A. No.

Nemeth:
Q. So it was here a doctor was giving you a full examination . . .

[redacted]
A. Right.

Nemeth:
Q. And when he started poking around, you said, "Don't do that, that hurts."

[redacted]
A. I told him, I said, "Look, my balls have been kicked." And he examined my . . . my . . . my technical.

Cornell:
Q. Okay, did you tell the people at the clinic at Central Jail that your testicles hurt?

[redacted]
A. No.

Cornell:
Q. Didn't tell them. Okay. So it wasn't until you got here that you told them.

[redacted]
A. Right.

Nemeth:
Q. Let me just ask you. Why didn't you tell them there?

[redacted]
A. At the clinic?

Nemeth:
Q. Right.

[redacted]
A. I didn't want to. 'Cause they knew for a fact that I couldn't (inaudible) would make it look like . . . they knew if I was kicked down there, they knew if they had checked it out what cell I was in right there at Central Jail, they knew for a fact that how this man get kicked in the . . . in the nuts and busted out in the head and his cellies is not no bloods and no crips. When its three white guys, a Mexican, and two Black guys. Six men in the cell. They would've know right then and there.

Cornell:
Q. So why didn't you tell them right there?

[redacted]
A. I was going to tell them, but I wanted to get to the hospital.

Nemeth:
Q. You were afraid.

[redacted]
A. I was afraid. I was afraid?

Nemeth:
Q. You were afraid.

[redacted]
A. Because they would have known for . . . for sure.

Cornell:
Q. All right.

[redacted]
A. It couldn't have been them guys in the cell. Then another thing too I forgot to mention. Okay, when I was telling, I said, "Sir, please, I'm not . . . I'm not a crip. I'm not a crip Sarge," I said, "Sergeant help me. Don't come back in that cell." They went right in front of the row, "All right, get your all fuckin ass in there."

Cornell:
Q. Who were they yelling that to?

[redacted]
A. The guys in Baker Row.

Nemeth:
Q. Who . . . whose they yelling, the deputies or the Sergeant.

[redacted]
A. The deputies. . . the deputies. They would go down the row.

Nemeth:
Q. They would go down the row.

[redacted]
A. They'd go on around, "Get your fuckin ass in there."

Nemeth:
Q. Well, who was out. Nobody was out.

[redacted]
A. Nobody was out, but he was yelling out there, "Get your . . ."

Nemeth:
Q. Behind the bars he would tell them.

[redacted]
A. Yeah. Yeah. He said, "Get your fuckin ass in there."

Nemeth:
Q. Get away from the bars, don't get away from me."

[redacted]
A. Yeah, get away from the fuckin bars.

Cornell:
Q. [redacted] we're going to ask you the question, I'm going to ask it to you now. Because you gave them a story at Central Jail and now you're giving us a different story now. I'm going to ask you . . .

[redacted]
A. I tell you a true story now.

Cornell:
Q. On everything you're telling us here now is the truth.

[redacted]
A. This is the truth, sir.

Cornell:
Q. And what you told them at the Central Jail before was a lie because you were afraid the deputies would hurt you worse.

[redacted]
A. Yes, sir.

Nemeth:
Q. And you wanted to make sure you get medical treatment and get out of there, is that right?

[redacted]
A. Yes, sir.

Cornell:
Q. Okay. Okay.

Nemeth:
Q. Let me . . . let me explain . . .

Cornell:
Q. So when the doctor first asked you about your groin, you told him it hurt? Did you tell him the story?

[redacted]
A. He, first of all what he did, he got my, he cleared my face all up and after he started examining.

Cornell:
Q. Right.

[redacted]
A. And he said . . .

Cornell:
Q. And then when he tested, you told him not to because it hurt.

[redacted]
A. He was at me (inaudible) I said, "Doc, I'm going to tell you." He said, "What happened?" I said, "Doc, you want me to tell you the truth?"

Cornell:
Q. Right.

[redacted]
A. I'll tell you. I said, "The police jumped on me."

Nemeth:
Q. Okay.

[redacted]
A. I said. He said, "Well . . ."

Nemeth:
Q. All right. Let me just tell you . . . Listen to this. I just have to tell you this. (Inaudible). I'm not making any judgments.

[redacted]
A. Okay.

Nemeth:
Q. I'm not saying whether you're lying now or you're telling the truth now. I'm not making any judgments, okay?

[redacted]
A. Okay.

Nemeth:
Q. But I have to tell you by law that what you're alleging is, in fact, a crime, okay? All right. Again, you're . . . you're saying these deputies committed a crime on you, assaulted you. Now, I'm not saying I

don't believe you, but what I have to tell you is that if it turns out . . . we're going to investigate this, 'cause the Sheriff's Department is very concerned about these type of allegations that you're making. You follow me so far?

[redacted]
A. Um-hm. Yes, sir.

Nemeth:
Q. Okay, and we are going to investigate it very clearly and we're going to get to the bottom of it and find out somebody is lying, okay?

[redacted]
A. (Inaudible).

Nemeth:
Q. Now wait a second, listen to me okay. What could happen is if we find out that you are not telling the truth about what happened now, it's possible that you could be prosecuted for filing a false charge, basically, a false police report. You follow me?

[redacted]
A. Yeah.

Nemeth:
Q. 'Cause you're reporting to us that a potential crime occurred to you, okay?

[redacted]
A. Yes, sir.

Nemeth:
Q. And that means that if we investigate and find out that you're not telling us the truth now, and you are deliberately making misstatements, you could be criminally prosecuted. You understand that?

[redacted]
A. I understand.

Nemeth:
Q. Okay, and do you want to continue on and make this charge and allegation right now?

[redacted]
A. Yes, sir, I do.

Nemeth:
Q. Okay. Would you be willing and again, I'm not commenting on whether I don't believe you or not, but I just want to ask you this question as an investigative tool. Would you be willing to take a polygraph or, in other words, a lie detector test, to test if you are really telling us the true story right now?

[redacted]
A. Yes, sir, I will.

Nemeth:
Q. You will. You will consent to that.

[redacted]
A. Yes, sir, I will.

Nemeth:
Q. Okay.

Cornell:
A. I remember the part where you said you first came in and the police jumped on you before. Tell me what happened there and what kind of force they used on you at that time, or did they use any force on you.

[redacted]
A. Yes, they did, sir.

Cornell:
Q. Okay, tell me about that.

[redacted]
A. Now.

Cornell:
Q. That was when you were first booked in?

[redacted]
A. Yeah, when I first got booked in, right?

Cornell:
Q. In September.

[redacted]
A. Ah, yeah, September. I think that was the 26th . . .

Nemeth:
Q. The 27th or 26th . . . okay.

[redacted]
A. . . . or 27th. Now, okay, get booking in there and they asked you what type of medication? You know, are you a diabetic or are you this or that. I said, I'm an an epileptic. I have seizures. He said, "Okay." Then . . . then they say, "Do you take any kind of psyche control medication." I said, "Yes, I do. I take psyche control medication." "What kind," I said, "I take Thorazine." I said, "My psychiatrist said I'm schizophrenic, I'm paranoid schizophrenic, because I've been abused before.

Nemeth:
Q. Right.

[redacted]
A. He said, "Well, how did you start having seizures?" "Because I was jumped on me once before and kicked me in my face . . ."

Nemeth:
Q. Well, is that like years ago, or what?

[redacted] ..

A. Well, that's years ago, long time ago, long, long, long, time ago. I said and after that I don't know.

Cornell:

Q. Okay, so you called the nurse (inaudible).

[redacted]

A. (Inaudible). Okay, now, oh, Lordy.

Nemeth:

Q. You don't have to demonstrate, just sit there and tell me. Okay. After they finished and tell me what they did to you.

[redacted]

A. (Inaudible). But anyway, sir, this is (inaudible), Jesus Christ, sir, God strike me down if I'm lying, but this to God the honest truth. Now, if it wasn't the truth I wouldn't be saying it to you. I even had a complaint, anyway, so I go to see the nurse, right? So they got me handcuffed, right? Now, #1, I can tell you what would happen. Now, when you get booked in and x-rayed and everything and then they ask you what kind of disease, you have any disease and everything . . .

Cornell:

Q. Right. That's in the Inmate Reception Center when they first bring you in right.

[redacted]

A. Right. This guy, I guess (inaudible) long time ago, he says, "I remember you, [redacted]

Nemeth:

Q. This is another inmate, right?

[redacted]

A. This is another right. "I'm going to kick your fuckin ass." He's going to do what? I said, "Fool, you ain't doing nothing to me." This is a Black guy, (inaudible) right, he was sitting there right. I said, "What." I said, "Come on, [redacted]" and I took my (inaudible), you know, I studied marshal arts when I was in the Army and I kicked him in his ass. "Come on, what it is, sucker."

Nemeth:

Q. So you got involved in a fight with this . . .

[redacted]

A. . . . inmate.

Nemeth:

Q. . . . who threatened you by destroying . . .

[redacted]

A. Right and he kicked me out and you know something, he shackled me down to the bench.

Nemeth:

Q. Who did?

[redacted]
A. One of the seniors, you know, when . . .

Nemeth:
Q. Shackled you to the bench.

[redacted]
A. (Inaudible)

Cornell:
Q. (Inaudible) frightened kick you in the nuts.?

[redacted]
A. (Inaudible) the first time.

Cornell:
Q. Okay, during the time that you kicked this guy, did he kick you back, in the nuts?

[redacted]
A. No. This is the first time I got arrested. I'm not talking about this incident, but . . .

Nemeth:
Q. No, when you're talking about the 27th of September, this year, when you were first brought here this time, right?

[redacted]
A. Right. My first (inaudible).

Cornell:
Q. Yeah, you kicked the Black guy. Did he kick you back?

[redacted]
A. No. He . . .

Nemeth:
Q. Did he fight back at all.

[redacted]
A. No. He said, "What's wrong with you, you got problems." He said, "I'm going to kick your fuckin ass."

Cornell:
Q. Okay.

[redacted]
A. The other one (inaudible), "I'm going to whip your ass too."

Nemeth:
Q. Okay, you kicked him, though.

[redacted]
A. I kicked him.

Nemeth:
Q. And did he fight back?

[redacted]
A. No.

Nemeth:
Q. He never retaliated.

[redacted]
A. No.

Cornell:
Q. Then the deputy shackled you.

[redacted]
A. And then the deputy said, "Calm, down, Mr. [redacted] said, "No." He said, "What's the problem, Mr. [redacted] said, "You see that sucker right there, I whipped his home boy." I said, "He's (inaudible), no gang-bang. And he wouldn't listen to me and I'm going to whip his fuckin ass. He said, "Well, you don't do that in here. Wait until you get in the dorm, Mr. [redacted]

Cornell:
Q. Okay, go ahead, what happened. Is that the end of it.?

[redacted]
A. That's the end of that. And then you know what? And then they also came up there.

Cornell:
Q. Yeah.

[redacted]
A. And whatcha, call them, the two striper, right? (Inaudible)

Cornell:
Q. Right.

[redacted]
A. He said Mr. [redacted] kicked his foot out. He said, "Well, Mr. [redacted] we're going to take you down here. And her personally put some (inaudible) around my leg and he sent me down to the clinic. And while he was (inaudible), one of the officers took me out to the first floor to the clinic. He said, Mr. [redacted] you can kick real good, huh?" I said, "Sir, I can't." He said, "Where you learn to kick like that or how to fight. You know marshal arts."

Nemeth:
Q. Okay, so how did you get injured, though, that's what we're getting at.

[redacted]
A. Okay, then, I'm telling you right now. That's what I have been. First day I got arrested now, okay. Now, I'll tell you a story about that.

Cornell:
Q. Yeah, I don't care about the (inaudible).

[redacted]
A. Okay, now, then he said, "You not going to try to do nothing. Mind if I put something on your leg." I said, "No. I'm not going to kick." And while he was escorting me to the clinic, right?

Nemeth:
Q. Yeah.

[redacted]
A. He asked me how did I learn marshal arts. I said, "Well, I was in the Army for three years, and I studied a little marshal arts. That's how I learned.

Nemeth:
Q. Okay. So.

[redacted]
A. Now, I gets to the clinic, so two deputies, and I know them good. Then they said, "Oh, they could say no (inaudible) in front of the booth on the first floor before they escort me to the clinic." They said, "Oh, this guy could kick this high." These two (inaudible) deputies, they escorted me to the clinic and they asked me information. She asked me. She said, "Mr. [redacted] do you know where you at?" I said, "Yes, I do (inaudible)."

Cornell:
Q. Let's get to the point where they used the force.

[redacted]
A. I was going to say . . .(inaudible).

Cornell:
Q. (Inaudible)

[redacted]
A. (Inaudible) doing her thing. And he can back me. I was handcuffed like this here. The deputy in the back of me, oh, I know him real good.

Cornell:
Q. Okay, what's his name?

[redacted]
A. His name is Officer, as a matter of fact, let me see, ah, ah, Salva–, alfred–, Lari–, Larino, Officer Larino. He's a blond guy. I know him real good . . .

Cornell:
Q. Okay.

[redacted]**:**
A. . . . 'cause I could cuss him out.

Cornell:
Q. Okay.

[redacted]

A. I know him real good.

Cornell:

Q. What did he do?

[redacted]

A. See. He grabbed me from the back of my pants and said, "Get up." I said, "Is this the end of the interview?" "Shut up you fuckin asshole. I don't like . . . I don't like your mouth." I put my hand up. He said, "What," I said, "Wait a minute, man, why do you got to do this. Why do you got to use my hand." He said, "Wait a minute. Ah, we got a real one here," and threw me down on the ground. And his buddy grabbed me from the back. I told my wife that. Remember she came to visit me and put me in 7100. (Inaudible). Grabbed from the back. He said, "You fuckin, asshole, you want to resist." I said, "No, sir, what you're doing." Then the other, his partner socking me in the stomach. I forgot, like I said, "Bam, bam, you got it now, bam, bam." I said, "Oh, come on man, why you not," He said, "Oh, you know what you did." Then he put me on the bench. I said, "Oh, I disrespect, I disrespect the nurse." I said, "I'm sorry, I disrespect the nurse." "You got enough." I said, "Yes, sir, I apologize for disrespecting the nurse." "You haven't got enough." They took me off the (inaudible) right there. They picked me up again and then this time the other one got a chance to grab me by the neck and sock me in the stomach. "You haven't got enough." I said, "Yes, sir, yes, sir, I've got enough." (Inaudible) my muscles. "Yes, sir, yes, sir. Come on, you fuckin asshole." Then (inaudible) then have someone to see you came, oh, I know him real good, too." By this time when (inaudible) took me to 711 which is the ding module . . .

Cornell:

Q. Right.

[redacted]

A. . . . and when you put on your greens, I mean your yellow, all and this two stripe, I don't know if they call them sergeants, but they came in. "Hey, what's this about." "Oh, this fuckin asshole, he's . . . you know, he's a fuckin ding. He wants to kick and everything." And there's a whole lot of thing I can do, so I come that time. Right? I said . . . I said, "You know something, you mother fucker? I said, "No, you tell the real mother fucker, you tried to choke me mother fucker. You prejudice mother fucker." I said, "You know something? A good day is coming." I said, "Because you hit me for nothing. I didn't do a damn thing." "Shut up you fuckin asshole," and then they put me in the elevator, one with two stripes. I said, "No," when they put me up there, so a whole lot of cops came in, right? They put me up (inaudible) to 31. I said, "You know, Sergeant, I am not going to turn my back, I turn around, I said (inaudible). I said, "I'm going to get you real good and the badge number." I just talking about . . .

Nemeth:

Q. You get any injuries on that?

[redacted]

A. No, he just grabbed and this is the scratches on my neck. He never hurt me, you know. I tell my mama.

Nemeth:

Q. Anything else you want to add on that one?

[redacted]

A. And . . . and . . . and . . .

Nemeth:
Q. We got plenty, trust me.

[redacted]
A. And . . . and . . . and that's it.

Nemeth:
Q. Okay.

[redacted]
A. And after that.

Nemeth:
Q. All right very good.

[redacted]
A. And as a matter of fact . . . Yes, sir?

Nemeth:
Q. What month is this?

[redacted]
A. That month. This is October.

Burnett:
Q. And do you know what today's date is?

[redacted]
A. October the 28th, as a matter, no 29th. It has to be the 29th. He said I was supposed to go to court on yesterday sometime.

Burnett:
Q. All right, what's the year.

[redacted]
A. 1994.

Buruett:
Q. Okay, and where are you right now?

[redacted]
A. I am at the County . . . at the General Hospital.

Nemeth:
Q. You can't mention . . . oh, I'm sorry . . .

Burnett:
A. Do you know really what time it is?

[redacted]
A. Well, all I have to say between, okay about between 6 and . . . maybe between 5 and 6 o'clock in the afternoon.

Cornell:
Q. Okay, [redacted], we need to have you sign some medical papers so we can get copies of your medical forms. Will that be okay with you?

[redacted]
A. Yes, sir.

Cornell:
Q. Okay, when we go off tape we'll go ahead and Sergeant Nemeth will give you a copy of the form and you just sign it and that way we can get your medical records, okay?

Nemeth:
Q. Just to follow up on what Sergeant Burnett was asking you. You mentioned earlier. You've been on Phenobarbital and that's what you came here asking for it, because you've been treated. Have you been mentally hospitalized before for difficulties, or. . . ?

[redacted]
A. Well, ah . . .

Nemeth:
Q. Were you ever in Atascadero?

[redacted]
A. I was in Atascadero.

Nemeth:
Q. For how long?

[redacted]
A. I was in Atascadero for nine months.

Nemeth:
Q. Nine months. Do you remember what for?

[redacted]
A. They sent me to Atascadero . . .

Nemeth:
Q. Just quickly, I mean . . .

[redacted]
A. Okay. Okay. I'll tell you about it.

Nemeth:
Q. We're running out of time.

[redacted]
A. Okay. Okay, the reason why because they said, "I'm going to try to get some pussy. So act like you're crazy and move to Atascadero to get some pussy."

Nemeth:
Q. All right, what . . . what did they say. What reason did they say they sent you there?

[redacted]
A. Oh, they said schizophrenic.

Nemeth:
Q. Schizophrenic.

[redacted]
A. Yes, sir.

Nemeth:
Q. Were you ever hospitalized anywhere else at Augustus Hawkins, or any of the other medical . . .

[redacted]
A. No, that's the only time.

Nemeth:
Q. That was the only time.

[redacted]
A. That's the only time.

Burnett:
Q. What did they tell you that people who are schiz– . . . schiz–. . . schizophrenic do? What do they do?

[redacted]
A. They say people with schizophrenic are paranoid. Schizophrenic is the type of person that can't be around a lot of people and they get paranoid sometimes and they just might go off and fight or do anything crazy, because they paranoid. They can't be around a lot of people.

Burnett:
Q. Do they see things also?

[redacted]
A. Yes, they hear voices.

Burnett:
Q. They hear voices.

[redacted]
A. And they see things. I mean they . . . they hear voices and they see things.

Nemeth:
Q. Have you ever experienced any of these?

[redacted]
A. No.

Nemeth:
Q. Nothing like that.

[redacted]
A. I was faking.

Nemeth:
Q. You were faking it.

Cornell:
A. You were seen on the outside by a psyche, psychologist, psychiatrist on the outside?

[redacted]
A. Okay, once I paroled, as a matter of fact, sir, I seen one (inaudible), once I paroled. As a matter of fact, from Atascadero, they sent me back to CMC. I said, "why you're going to send me back?" "You're not [redacted] you just want to get out." (Inaudible). I said, "You're right."

Cornell:
Q. All right. Okay.

Nemeth:
Q. Anything else. Investigators? Okay. We'll end the taped interview at 1730 hours, make 1931.

MRS. [redacted]

I.A.B. INTERVIEW 11-17-94

[redacted]

Nemeth
Q. Okay, today's date is Thursday, November 17, 1994. The time is 1625 hours. I'm Sergeant John Nemeth. This is my partner, Sergeant Tim Cornell. (inaudible) We're here from Sheriff's Internal Affairs Bureau to speak with Mrs. [redacted] is that your last name, [redacted]?

Cornell
Q. Her last name is [redacted]

Nemeth
Q. I'm sorry. [redacted] [redacted].

[redacted]
A. (inaudible) I was on the phone too.

Nemeth
Q. Your the mother?

[redacted]
A. Yeah.

Nemeth
Q. Okay. (inaudible)

[redacted]
A. (inaudible) He was talkin' to both of us on the two-way line when it happened.

Nemeth
Q. Okay. So you heard the whole thing too?

[redacted]
A. I'm the mother, and yeah.

Nemeth
Q. You're his mother?

[redacted]
A. Yeah. I'm his mother.

Nemeth
Q. Okay. Can I get your name then ma'am?

[redacted]
A. [redacted].

Nemeth
Q. [redacted].

[redacted]
A. Uh-uh.

Nemeth
Q. And your middle name?

[redacted]
A. [redacted]

Nemeth
Q. Do you have a middle name?

[redacted]
A. [redacted].

Nemeth
Q. [redacted]?

[redacted]
A. Uh-uh.

Nemeth
Q. And then [redacted] [redacted]?

[redacted]
A. Uh-uh.

Nemeth
Q. What's your birth date ma'am?

[redacted]
A. [redacted] of '[redacted].

Nemeth
Q. Okay. And this is your home address here where we are right now?

[redacted]
A. [redacted].

Nemeth
Q. [redacted]?

[redacted]

A. Yes. [redacted].

Nemeth
Q. [redacted]

[redacted]
A. [redacted], I believe.

Nemeth
Q. [redacted]?

[redacted]
A. Or [redacted].

Nemeth
Q. [redacted]. Okay. Do you have a phone number here ma'am?

[redacted]
A. It's off at the present, sir.

Nemeth
Q. Turned off right now?

[redacted]
A. Yeah.

Nemeth
Q. Okay. And can you tell us now when--do you remember roughly when that was--that conversation you were having on the phone with your son at the time?

[redacted]
A. My phone was--the phone was on and we were in a three-way conversation when the, when the disturbance started.

Nemeth
Q. Okay. That was you, your son [redacted]

[redacted]
A. --And the, and the daughter-in-law.

Nemeth
Q. And the daughter-in-law?

[redacted]
A. Yeah.

Nemeth
Q. What's her name, [redacted]?

[redacted]

A. [redacted].

Nemeth
Q. Okay.

[redacted]
A. And I'm [redacted].

Nemeth
Q. Where does [redacted] stay on [redacted]?

[redacted]
A. She stays on [redacted], yeah.

Nemeth
Q. Do you have the address?

[redacted]
A. I don't have the exact address. She's a busy thing. It's near [redacted]. And we were having a three-way conversation.

Nemeth
Q. Okay.

[redacted]
A. When the, when the disturbance started.

Nemeth
Q. What did you hear then?

[redacted]
A. I heard a whole lot of yelling and screamin' and this loud-person stuff. And, and like kinked and jinked and yakked and this and that other...

Nemeth
Q. Like the phone was bouncing around?

[redacted]
A. Yeah. And licks and stuff being passed and things.

Nemeth
Q. What? Licks and stuff?

[redacted]
A. You know like you could hear things in the background, you know what I mean.

Nemeth
Q. Okay. Like scuffling and stuff like that?

[redacted]
A. Yeah.

Cornell
Q. You're doin' this for the tape cause the tape can't pick up--

Nemeth
Q. You're swinging your right arm back and forth--

[redacted]
A. --No, what I'm sayin' I heard sounds like, you know, like they was fight--you know, like was fighting in there.

Nemeth
Q. Okay. Did, did [redacted] tell you before he hung the phone down that "hey, something's happening I have to leave," or did he say anything like that or?

[redacted]
A. No. I just heard the, you know, I heard on the, on the phone.

Nemeth
Q. Okay. But I mean, you're talking to him one minute and then the next minute he's gone and you hear this? He doesn't say, "hey I've got to leave right now," or?

[redacted]
A. No. We was talking on the phone, all three of us. And I heard this, you know--

Nemeth
Q. Scuffling sounds or whatever?

[redacted]
A. Yeah, scuffling in there and like licks being passed and stuff.

Nemeth
Q. By licks being passed do you mean blows being struck (inaudible).

[redacted]
A. Yeah. Then, then it was a silence. You know. I heard it and then it was silence.

Cornell
Q. Did you hear what anybody said?

[redacted]
A. I just heard the voices and and words and people and things, you know what I mean.

Nemeth
Q. Can you remember what they were saying?

[redacted]
A. No. I do--I was so--I wasn't really payin' attention, but there was a outburst, there was a fight. You know and I heard, I--I da, I da, I don't recollect but it was a fight.

Cornell
Q. Okay.

Nemeth
Q. Okay. Do you happen to know your daughter-in-law's phone number?

[redacted]
A. Uh-uh.

Nemeth
Q. [redacted]'s?

[redacted]
A. Her name is--[redacted]'s phone number is [redacted].

Nemeth
Q. Okay. And her phone's out?

[redacted]
A. Yes.

Nemeth
Q. All right. All right. Have you talked to her about this since this incident?

[redacted]
A. No. There wasn't no discussion or nothing. There just was the phone and everything went on. There was a fight and struggle and then it went, the phone went--

Nemeth
Q. --Okay. It was hanging loose?

[redacted]
A. Yeah.

Nemeth
Q. And then at some point after that did, did [redacted] come back on the phone and talk to you then after that or no? Or what happened? Did the phone just get hung up or what happened?

[redacted]

A. That particular night I don't, I don't know I...

Nemeth
Q. You don't remember?

[redacted]
A. I don't know. But I know it was a fight and a struggle and I heard licks and bits and bangs and words and everything. You know, I, it was just--wasn't anything (inaudible) I just--all of a sudden I just got quiet, you know, I just, you know.

Nemeth
Q. You don't know how the, how the conversation or the phone call ended though? You don't remember, did [redacted] come back on the phone?

[redacted]
A. No. I don't remember, but I remember hits and licks and--

Nemeth
Q. Okay.

[redacted]
A. And, and uh.

Nemeth
Q. Did anybody later tell you what happened? Did [redacted] did [redacted] tell you what happened later on?

[redacted]
A. 'Bout what happened then?

Nemeth
Q. Yeah. Yeah. Did he ever call you or talk to you later and tell you what happened?

[redacted]
A. There wasn't no discussion. I just heard what I heard.

Nemeth
Q. Okay. I mean at some point later on, you know, it's been nearly a month now, did--have you talked to [redacted] about it since then?

[redacted]
A. No, I haven't discussed nothin' with nobody. I just wanted to make sure that he was safe (inaudible)

Nemeth
Q. Right. Yeah. So have you talked to him since this incident? Have you talked to [redacted]

[redacted]
A. --About the, about the--what happened down there and everything?

Nemeth
Q. Right. Uh-uh. Have you?

[redacted]
A. Well. I just wanted to make sure that [redacted] was all right.

Nemeth
Q. That's fine. He's okay. There's no problem.

Cornell
Q. There's no problem.

Nemeth
Q. We just need to know yes or no, did you talk to him about it?

Cornell
Q. He told us, he told us--he talked to us for about an hour one night and told us everything that he saw...

[redacted]
A. And he said--I don't know--I said to myself, I said well something gotta be (inaudible), I said, I don't know. I said I hope he's all right. He is all right. You know, like dead. And I just, I didn't go--

Nemeth
Q. --Did [redacted] tell you anything on the phone before this happened? "Hey, there's some deputies coming," or anything like that or did the phone just went?--

[redacted]
A. --No. I just heard what I heard.

Nemeth
Q. Okay. So next thing you know you're talking to him and the next thing you know you're hearing all these sounds?

[redacted]
A. Yeah.

Nemeth
Q. Is that right?

[redacted]
A. Yeah and yeah.

Nemeth
Q. Okay. And did he, did [redacted] tell you something about what happened later on?

[redacted]
A. 'Bout what happened later on?

Nemeth
Q. Yeah. Did you talk to him, like the next day or--

[redacted]
A. --No, I just told what I heard.

Nemeth
Q. Okay.

[redacted]
A. I heard--

Nemeth
Q. What I'm asking you is did you talk to [redacted] let's say one or two or three days later or some point later? Did you talk to [redacted] again?

[redacted]
A. Did I talk to [redacted] about what happened?

Nemeth
Q. Yeah. Right.

Cornell
Q. Did he tell you what happened?

Nemeth
Q. Did he just say, hey--

[redacted]
A. (inaudible) Later on when I talked to him and he said it was a--a outburst in, they locked down and this and that and the other. The deputies was jumping on--somethin' happened in there, later on, when I talked to him.

Nemeth
Q. Right.

[redacted]
A. And I said, "Well, you all right?" He said, "Yeah, mama."

Nemeth
Q. You were just checking with him to make sure he was okay?

[redacted]
A. Yeah.

Nemeth
Q. All right. We don't have any problem with that.

[redacted]
A. Yeah, I heard.

Nemeth
Q. Have you, have you talked to your daughter-in-law, [redacted], about this incident since it happened on the phone? Or not?

[redacted]
A. No. No. I didn't, I didn't really go to that much--

Cornell
Q. (inaudible)

[redacted]
A. Yeah. I didn't get to go back into it, but I heard it all this jam, slam, bam, boom, bam like this.

Nemeth
Q. A lot of commotion?

[redacted]
A. Yeah.

Nemeth
Q. It sounded like a fight to you?

[redacted]
A. Yeah. It was a fight. It was a fight.

Nemeth
Q. Did you hear any screaming or anybody saying any words that you could hear or anything?

[redacted]
A. It was just a, it was just a, an outburst fighting.

Cornell
Q. How long do you think it lasted?

[redacted]
A. I couldn't really tell you 'cause it was so, you know what I mean.

Cornell
Q. I mean was it quick or did it seem like it took a long time or?

[redacted]
A. I didn't really pay attention.

Cornell
Q. Okay.

[redacted]
A. I just know it happened.

Nemeth
Q. Okay. Anything else you'd like to add at this time ma'am?

[redacted]
A. No. I ain't got nothin' else, really. I know it was a fight and everything and I heard, you know, I heard it.

Nemeth
Q. Okay. We'll end the tape then at 1632 hours.

END OF INTERVIEW

LOS ANGELES COUNTY SHERIFF'S DEPARTMENT

EXHIBITS
(A THROUGH LL)

INTERNAL AFFAIRS BUREAU INVESTIGATIVE REPORT

I.A.B. 008383
(Book 7 of 8)

CONFIDENTIAL

LIST OF EXHIBITS

A - Crime Report # 094-03357-5100-058 written by Subject Kluth

B - Supplemental Report #094-03357-5100-058 written by Subject Sloan

C - Supplemental Report #094-03357-5100-058 written by Subject [redacted]

D - Supplemental Report #094-03357-5100-058 written by Subject [redacted]

E - Use of Force Review Package submitted by Sergeant Mosely

F - Use of Force Memo written by Sergeant Duncan

G - Inmate Injury Report on Complainant [redacted]

H - Video Tape of Complainant [redacted] immediately after force incident

I - Memo from Sergeant Williams to Lieutenant Milburn dated 10-28-94

J - Memo written by Sergeant Duncan dated 10-31-94

K - Subject Kluth's Record of Previous Force Incidents

L - Subject Sloan's Record of Previous Force Incidents

M - Subject [redacted] Record of Previous Force Incidents

N - Subject [redacted] Record of Previous Force Incidents

O - M.C.J. in-service sheet for 10-27-94

P - Subject Romero's Prior Statement to I.C.I.B.

Q - Subject Barrett's Prior Statement to I.C.I.B.

R - Subject Kammer's Prior Statement to I.C.I.B.

S - Subject Broad's Prior Statement to I.C.I.B.

T - Two Polaroid Photos of Complainant [redacted] Facial Injuries

LIST OF EXHIBITS

U - Five pages of Complainant [redacted] Injuries

V - Seven pages of Photos of Location of Incident in Module 4400

W - Photos of Complainant [redacted] and Witness [redacted]

X - Training Records for Subjects Kluth, Sloan, [redacted] Barrett, Romero, Kammer, and Broad

Y - Manual of Policy and Procedures - Use of Force and Reporting Use of Force Policy

Z - Sketch of Module 4400 by Witness [redacted] with Location Where Incident Began marked with an 'X'

AA - Sketch of Module 4400 with positions of involved individuals indicated by Subject Kammer

BB - Sketch of Module 4400 with positions of involved individuals indicated by Subject Kluth

CC - Sketch of Module 4400 with positions of involved individuals indicated by Subject Sloan

DD - Sketch of Module 4400 with positions of involved individuals indicated by Subject [redacted]

EE - Sketch of Module 4400 with positions of involved individuals indicated by Subject [redacted]

FF - Copies of "Mug Show-Up" Folders marked "A through F" with identification of each person shown

GG - Photo Show-Up Admonition form signed by Complainant [redacted] along with copies of "Show-Up" Folders with [redacted] identifications written on them

HH - Photo Show-Up Admonition form signed by Witness [redacted] along with copies of "Show-Up" Folders with [redacted] identifications written on them

LIST OF EXHIBITS

II - Photo Show-Up Admonition form signed by Witness [redacted] along with copies of "Show-Up" Folders with [redacted] identifications written on them

JJ - Photo Show-Up Admonition form signed by Witness [redacted] along with copies of "Show-Up" Folders with [redacted] identifications written on them

KK - District Attorney Criminal Prosecution Rejection Form

LL - Use of Force Report started, but erased by Kluth

MM - M.C.J. Unit Order 6.01/003 dated 02-23-94 - Extraction Teams

NN - I.C.I.B. Report #494-00023-2300-444

EXHIBIT A

COUNTY OF LOS ANGELES
SHERIFF'S DEPARTMENT
COMPLAINT REPORT

RECORDS & STATISTICS BUREAU'S USE ONLY

DATE 27 OCT 94 PAGE 1 OF 5

ACTION: ACTIVE (✓) PENDING ( ) INACTIVE ( ) | INDEX INFO Yes ( ) No (✓) | No of Adult Arrests Ø | No of Subject Detentions Ø | URN (File No) 094-03357-5100-058

CLASSIFICATION: BATTERY ON A PEACE OFFICER, 243(c) P.C.

CLASSIFICATION:

If Domestic Violence: N/A Weapon Used ( ) YES (✓) NO

DATE TIME DAY OF OCCURRENCE: 27 OCTOBER 1994, 0030, THURSDAY

PRINT DEPUTY REQUESTED: NO (✓) YES ( ) LOC ( ) STA ( ) VEH ( )

VIA SECTY — TIME —

LOCATION OF OCCURRENCE: MENS CENTRAL JAIL, 441 BAUCHET ST. L.A. CA 90012

TYPE OF LOCATION: JAIL FACILITY

TRACT

CODE: V—VICTIM, W—WITNESS, I—INFORMANT, R—REPORTING PARTY, P—PARTY LIST ONE WITNESS (IF NAMED) AND THE INFORMANT ON THIS PAGE.

CODE	LAST NAME	FIRST	MIDDLE	SEX	RACE	DOB	CHECK DAY PHONE BELOW
V No 1 OF 1	KLUTH	DAVID	ALLEN	M	W	ADULT	

RESIDENCE ADDRESS: L.A. COUNTY DEPUTY SHERIFF | CITY | ZIP | RES PHONE (AREA CODE) —

BUSINESS ADDRESS: 441 BAUCHET STREET | CITY: LOS ANGELES | ZIP: 90012 | BUS PHONE (AREA CODE) [redacted]

CODE	LAST NAME	FIRST	MIDDLE	SEX	RACE	DOB	CHECK DAY PHONE BELOW
No OF							

RESIDENCE ADDRESS | CITY | ZIP | RES PHONE (AREA CODE)

BUSINESS ADDRESS | CITY | ZIP | BUS PHONE (AREA CODE)

CODE	LAST NAME	FIRST	MIDDLE	SEX	RACE	DOB	CHECK DAY PHONE BELOW
No OF							

RESIDENCE ADDRESS | CITY | ZIP | RES PHONE (AREA CODE)

BUSINESS ADDRESS | CITY | ZIP | BUS PHONE (AREA CODE)

CODE: S—SUSPECT, SJ—SUBJECT, M—PATIENT, S/V—SUSPECT/VICTIM, SJ/V—SUBJECT/VICTIM CIRCLE CODE IF SUPP. PAGES USED FOR: V W S SJ M S/V SJ/V

CODE	LAST NAME	FIRST	MIDDLE	DRIVER'S LICENSE (STATE & No)
S No 1 OF 1	[redacted]	[redacted]		N/P

RESIDENCE ADDRESS: [redacted] | CITY: [redacted] | ZIP | RES PHONE (AREA CODE) [redacted]

BUSINESS ADDRESS: UNEMPLOYED L.A. COUNTY INMATE | CITY | ZIP | BUS PHONE (AREA CODE): N/A

SEX	RACE	HAIR	EYES	HEIGHT	WEIGHT	DOB	AGE	WHERE DETAINED OR CITE No
M	B	BLK	BRO	510	160	[redacted]	40	MCJ

OBSERVABLE PHYSICAL ODDITIES | AKA NICKNAME | BOOKING No [redacted]

CLOTHING WORN: L.A. COUNTY BLUE SHIRT AND BLUE PANTS | MAIN

CHARGE | WEAPON USED: FISTS

CODE	LAST NAME	FIRST	MIDDLE	DRIVER'S LICENSE (STATE & No)
No OF				

RESIDENCE ADDRESS | CITY | ZIP | RES PHONE (AREA CODE)

BUSINESS ADDRESS | CITY | ZIP | BUS PHONE (AREA CODE)

SEX	RACE	HAIR	EYES	HEIGHT	WEIGHT	DOB	AGE	WHERE DETAINED OR CITE No

OBSERVABLE PHYSICAL ODDITIES | AKA NICKNAME | BOOKING No

CLOTHING WORN | MAIN

CHARGE | WEAPON USED

VEHICLE USED IN CRIME YES ( ) NO (✓) UNKNOWN ( ) STORED ( ) IMPOUNDED ( ) | YR — | MAKE — | BODY TYPE — | COLOR —

LICENSE (STATE & No) | VIN/FRAME No

REGISTERED OWNER

IDENTIFYING CHARACTERISTICS

CHP 180 SUBMITTED YES ( ) NO ( ) | GARAGE NAME & PHONE

VICTIM DESIROUS OF PROSECUTION YES (✓) NO ( ) | VICTIM INSURED FOR LOSS YES ( ) NO ( ) | EAP No —

SUSPECT/SUBJECT RELEASE APPROVED BY | TIME | ARREST REVIEW SUBMITTED YES ( ) NO ( )

BY DEPUTY: KLUTH, DAVID A | BADGE No [redacted]

DEPUTY | BADGE No

STATION: MCJ | UNIT/CAR No: 4400 | SHIFT [redacted]

APPROVED: V. M[signature] | BADGE No [redacted] | TIME 0330 hrs

ASSIGNMENT: J.I.U.

SPECIAL REQUEST DISTRIBUTION

TT B/C BY | DATE | TIME | SECTY

76C300F-SH-R-49 (Rev. 1/86) PS 1/86

USE FOR PROPERTY/NARRATIVE AS NEEDED

DATE	TIME REC'D	O.L. (✓) DET ( ) CALL ( )	URN
27 OCT 94	0030		094-03357-5100-058

INPUT/CHECKED NCIC, CII, ETC. YES ( ) NO (✓) EVIDENCE (CODE-EV) HELD YES ( ) NO (✓) MARKED, TAGGED, SEALED & PLACED IN STATION EVIDENCE LOCKER INSIDE ( ) OUTSIDE ( ) SAFE ( ) REFRIG. ( ) BY ____ LEDGER PAGE No. ____

IF BURGLARY: FORCE USED YES ( ) NO (✓) POINT OF ENTRY-DOOR ( ) WINDOW ( ) ROOF ( ) OTHER ____

PROPERTY: (TOTAL VALUE) RECOVERED $ 0. STOLEN $ 0. DAMAGED $ 0.

PROPERTY CODE: S—stolen R—recovered L—lost F—found E—embezzled D—damaged (Use All Applicable Codes; For Example, If Property Is Both Stolen & Recovered, Code Is S/R)

PROPERTY RELEASED TO N/A

CODE	ITEM No	QUAN	DESCRIPTION INCLUDE KIND OF ARTICLE, TRADE NAME, IDENTIFYING NUMBERS, PHYSICAL DESCRIPTION, MATERIAL, COLOR, CONDITION, AGE AND PRESENT MARKET VALUE	SERIAL No.	VALUE
					$

WHILE WORKING MODULE 4400, I OPENED CELL 'B-4' TO LET AN INMATE ENTER THE CELL.

WHEN I OPENED THE CELL, AN INMATE, LATER IDENTIFIED AS SUSP. [redacted] EXITED THE CELL.

I TOLD HIM TO GO BACK INSIDE HIS CELL, OVER THE PUBLIC ADDRESS SYSTEM, TO WHICH HE DID NOT COMPLY. AFTER SEVERAL ATTEMPTS OF ORDERING HIM BACK INSIDE HIS CELL, I CLOSED HIS CELL, LOCKING HIM ON 'B' ROW.

SCREENING FACTORS

YES	NO		YES	NO	
✓		1. SUSPECT IN CUSTODY	✓		7. GENERAL SUSPECT DESCRIPTION
✓		2. SUSPECT NAMED/KNOWN		✓	8. GENERAL VEHICLE DESCRIPTION
	✓	3. UNIQUE SUSPECT IDENTIFIERS		✓	9. UNIQUE M.O. OR PATTERN
	✓	4. VEHICLE IN CUSTODY		✓	10. SIGNIFICANT PHYSICAL EVIDENCE
	✓	5. UNIQUE VEHICLE IDENTIFIERS		✓	11. TRACEABLE STOLEN PROPERTY
✓		6. WRITER/REVIEWER DISCRETION	✓		12. MULTIPLE WITNESSES

PART I STATISTICAL INFORMATION

ADDITIONAL CRIMES 1) ____ 2) ____ NUMBER OF VICTIMS ____

TYPE OF PROPERTY	STOLEN	RECOVERED	TYPE OF PROPERTY	STOLEN	RECOVERED
CLOTHING/FURS	$	$	JEWELRY	$	$
CONSUMABLE GOODS	$	$	LIVESTOCK	$	$
CURRENCY/NOTES	$	$	LOCAL STOLEN VEHICLES	$	$
FIREARMS	$	$	MISCELLANEOUS	$	$
HOUSEHOLD GOODS	$	$	OFFICE EQUIPMENT	$	$
			TV/RADIO/STEREO	$	$

WEAPONS CODE

- ( ) ARTICLES THROWN
- ( ) CAUSTIC CHEMICALS
- ( ) CLUB/BLUNT INSTRUMENT
- ( ) DRUGS/NOXIOUS GAS
- ( ) FIRE/EXPLOSIVES
- (✓) HANDS/FEET/FIST/ETC
- ( ) KNIFE/CUTTING INSTRUMENT
- ( ) POISON
- ( ) REVOLVER/PISTOL
- ( ) RIFLE
- ( ) SHOTGUN
- ( ) STRANGULATION
- ( ) VEHICLE
- ( ) UNKNOWN/OTHER

REPORT CONTINUATION NARRATIVE | URN 094 - 03357 - 5100 - 058

AFTER LOCKING HIM ON 'B' ROW, I EXITTED THE CONTROL BOOTH AND CALLED HIM OFF 'B' ROW TO THE AREA IN FRONT OF THE CONTROL BOOTH.

THEN, FOR MY SAFETY, I ORDERED SUSP [redacted] TO FACE THE WALL WHILE I TALKED TO HIM. SUSP, [redacted] REFUSED TO FACE THE WALL.

I THEN GRABBED HIS RIGHT SHOULDER TO TURN HIM AWAY FROM ME. AS I TRIED TO TURN HIM TOWARDS THE WALL, SUSP [redacted] LUNGED AT ME GRABING ME AROUND MY NECK WITH HIS RIGHT ARM.

WITH HIS RIGHT ARM AROUND MY NECK, HE BEGAN CHOKING ME. AS HE WAS CHOKING ME, HE STARTED SWINGING HIS LEFT FIST ATTEMPTING TO HIT ME THE FACE AND CHEST AREA.

I ATTEMPTED TO GET HIS ARM FROM AROUND MY NECK AS I WAS BLOCKING SWINGS FROM HIS LEFT FIST.

REPORT CONTINUATION NARRATIVE | URN 094-03357-5100-058

AFTER STUGGLING WITH SUSP. [redacted] I MOMENTARILLY FREED MYSELF FROM HIS GRASP. AS I WAS BACKING AWAY FROM HIM, HE JUMPED AT ME AND AGAIN GOT HIS RIGHT ARM AROUND MY NECK AND STARTED CHOKING ME AGAIN.

AT THIS TIME I TOOK SUSP [redacted] TO THE FLOOR.

AFTER TAKING HIM TO THE FLOOR, I WAS STILL FIGHTING TO RELEASE HIS ARM FROM MY NECK.

AT THIS TIME, DEPUTY SLOAN [redacted] DEPUTY [redacted], AND DEPUTY [redacted], ARRIVED IN THE MODULE.

AT THIS TIME, WITH THE HELP OF THE RESPONDING DEPUTYS, WE WERE ABLE TO FREE HIS HOLD ON ME AND RESTRAIN HIM.

SUSP WILLIAMS WAS THEN TAKEN TO THE CLINIC WHERE HE WAS TREATED BY NURSE LEAL #346.

REPORT CONTINUATION NARRATIVE | URN 034-03357-5100-058

SUSP [redacted] IS INCARCERATED ON A CHARGE OF 245(A)(1) PC. WITH A NEXT COURT DATE OF 10-28-94.

EXHIBIT B

COUNTY OF LOS ANGELES - SHERIFF'S DEPARTMENT SUPPLEMENTARY REPORT 1 OF 2

DATE 10-27-94 0030 HRS FILE NO. 094-03357-5100-058

C- 243 C PC ASSAULT ON PEACE OFFICER Action Token

V- DEPUTY KLUTH, DAVID A. [redacted]

D- —

S- [redacted] BK # [redacted]

THE PURPOSE OF THIS SUPPLEMENTAL REPORT IS TO PROVIDE INFORMATION PERTAINING TO THE FORCE USED ON INMATE [redacted] BK # [redacted] BY DEPUTY SHAN [redacted].

ON THE INDICATED DATE AND TIME DEPUTY KLUTH [redacted] WAS INVOLVED IN A PHYSICAL ALTERCATION WITH SUSP. [redacted] BK [redacted] I ASSISTED DEPUTY KLUTH IN GAINING CONTROL OF SUSP. [redacted] BY PLACING MY THUMB UNDERNEATH SUSP. WILLIAMS CHIN AND APPLYING PRESSURE.

THE CONTROL HOLD HAD NO EFFECT ON SUSP. [redacted] WITH THE ASSISTANCE OF DEPUTY [redacted] I GRABBED HIS RIGHT HAND AND USED A CONTROL HOLD TO BRING HIS RIGHT ARM IN BACK OF HIM AND

REPORT CONTINUATION — NARRATIVE | URN 094-03357-5100-058

HANDCUFF HIM.

USING DEPUTY KLUTH'S RIP HOBBLE RESTRAINT I WRAPPED BOTH FEET AND SECURED THE HOBBLE TO THE HANDCUFFS.

NO FURTHER FORCE WAS USED.

EXHIBIT C

REPORT CONTINUATION — NARRATIVE | URN 094-03357-5100-058

THE PURPOSE OF THIS SUPPLEMENTAL REPORT, IS TO PROVIDE INFORMATION PERTAINING TO THE FORCE USED ON I/M [redacted] BOOKING # [redacted] BY DEPUTY [redacted]

I RESPONDED TO MODULE 4400 REGARDING A DEPUTY INVOLVED FIGHT.

I ENTERED 4400 AND OBSERVED SUSPECT [redacted] STANDING DIRECTLY BEHIND DEP. KLUTH WITH HIS RIGHT ARM AROUND DEP. KLUTHS' NECK IN A CHOKEHOLD. AS I APPROACHED BOTH SUSPECT [redacted] AND DEPUTY KLUTH FELL TO THE FLOOR.

I IMMEDIATELY GRABBED SUSPECT [redacted] RIGHT ARM AND ATTEMPTED TO GAIN CONTROL OF IT. SUSPECT [redacted] LOCKED HIS ARM OUT AND WOULD NOT ALLOW ME TO GAIN CONTROL OF IT. I THEN STRUCK SUSPECT [redacted], SEVERAL TIMES WITH MY RIGHT FIST, IN HIS RIGHT SIDE AND RIGHT SHOULDER, IN AN ATTEMPT TO GAIN CONTROL OF HIS RIGHT ARM. SUSPECT [redacted] CONTINUED TO STRUGGLE VIOLENTLY AND IGNORED MY COMMANDS TO RELEASE HIS ARM.

I THEN ATTEMPTED TO APPLY A KNEE THRUST TO SUSPECT [redacted] RIGHT SIDE. SUSPECT [redacted]

REPORT CONTINUATION — NARRATIVE | URN 094-03357-5100-058

ATTEMPTED TO ROLL TO HIS SIDE, AND I FELL ACROSS HIS UPPER TORSO. I THEN GRABBED AHOLD OF SUSPECT [redacted] RIGHT ARM AND ONCE AGAIN ATTEMPTED TO GAIN CONTROL OF HIS ARM. DEP. SLOAN THEN GRABBED SUSPECT [redacted] RIGHT ARM AND WITH HIS ASSISTANCE, WE WERE ABLE TO GAIN CONTROL OF THE ARM AND PLACE IT IN THE SMALL OF THE SUSPECTS BACK.

DEPUTIES SLOAN AND KLUTH THEN HANDCUFFED SUSPECT [redacted]. DEP. SLOAN THEN APPLIED A RIPSTOP HOBBLE TO SUSPECT WILLIAMS LEGS. THE HOBBLE WAS THEN ATTACHED TO HIS HANDCUFFS WITH NO FURTHER INCIDENT.

DEP. [redacted]
MCJ MH#7 [redacted]

EXHIBIT D

REPORT CONTINUATION — NARRATIVE | URN 094-03357-5100-058

THE PURPOSE OF THIS SUPPLEMENTAL REPORT, IS TO PROVIDE INFORMATION PERTAINING TO THE FORCE USED ON I/M [redacted] BOOKING # [redacted] BY DEPUTY [redacted].

WHILE WORKING AS 56-59 PROWL I RESPONDED TO MODULE 4400 TO ASSIST DEP. KLUTH, [redacted], WHO WAS IN A PHYSICAL ALTERCATION WITH AN INMATE.

I ENTERED MODULE 4400 SALLY PORT AND SAW SUSPECT [redacted] CHOKING DEP. KLUTH'S NECK WITH HIS RIGHT ARM. FEARING FOR DEP. KLUTH'S SAFETY, I APPROACHED BOTH SUSPECT [redacted] AND DEP. KLUTH AT WHICH TIME THEY FELL TO THE FLOOR.

I IMMEDIATELY PLACED MY LEFT LEG ON THE BACK OF SUSPECT WILLIAMS LEGS AND ASSISTED DEP. KLUTH AND PLACED HIS LEFT ARM IN THE SMALL OF HIS BACK.

AS SUSPECT [redacted] CONTINUED TO VIOLENTLY RESIST, I SAW DEP. [redacted] TRY TO BRING SUSPECT WILLIAMS RIGHT ARM BACK BEHIND HIS BACK, BUT HE WOULD NOT COMPLY. I YELLED 4 TO 5 TIMES FOR SUSPECT [redacted] PLACE HIS RIGHT ARM

REPORT CONTINUATION — NARRATIVE | URN 094-03357-5100-144

BEHIND HIS BACK BUT HE CONTINUED TO VIOLENTLY RESIST. I THEN STRUCK SUSPECT [redacted] 2 TO 3 TIMES IN THE BACK OF HIS RIGHT THIGH. HE CONTINUED TO VIOLENTLY STRUGGLE SO I STRUCK HIM 2 MORE TIMES.

I THEN SAW DEP. SLOAN, [redacted] ASSIST DEP. [redacted] AND PLACE HIS RIGHT ARM IN THE SMALL OF HIS BACK.

DEP. SLOAN AND KLUTH THEN PLACED SUSPECT WILLIAMS IN HANDCUFFS. DEP. SLOAN THEN PLACED THE RIP HOBBLE RESTRAINT AROUND SUSPECT [redacted] ANKLES AND ATTACHED IT TO HIS HANDCUFFS WITH NO FURTHER INCIDENT

DEP. [redacted]

MCJ 56-59 PROWL [redacted]

EXHIBIT E

SERGEANT'S MEMO

FORCE REVIEW PACKAGE

OFFICE CORRESPONDENCE

DAT: : 10-27-94

FROM: VAN MOSLEY SERGEANT # [redacted]
MEN'S CENTRAL JAIL

TO: AL A. SCADUTO, CAPTAIN
MEN'S CENTRAL JAIL

SUBJECT: **USE OF FORCE**

INMATE: [redacted] BKG #: [redacted]

X Photographs of scene included
X O.P.E.S. Forms for each Deputy Included
X Deputy Statements Included in SH-R 49/Supplemental

Overview:

AT ABOUT 0030 HRS. ON 10-27-94, DEPUTY DAVID KLUTH [redacted] HAD REMOVED I/M [redacted] FROM B ROW IN MODULE 4400 AFTER [redacted] REFUSED TO LOCK DOWN. [redacted] IS A MENTAL OBSERVATION PATIENT IN THAT MODULE. DEPUTY KLUTH TOLD [redacted] TO STAND IN FRONT OF THE ROW GATE AND FACE THE GATE. [redacted] REFUSED TO TURN AROUND. DEPUTY KLUTH PUT HIS HAND ON [redacted] SHOULDER TO TRY TO TURN HIM. [redacted] RESPONDED BY APPLYING A HEADLOCK TO DEPUTY KLUTH. DEPUTY KLUTH WAS ABLE TO FREE HIMSELF BRIEFLY AND WAS AGAIN CAUGHT IN ANOTHER HEADLOCK BY [redacted] THE TWO STRUGGLED TO WITHIN A FEW STEPS OF THE SALLY PORT BARS AT WHICH POINT DEPUTY KLUTH DECIDED TO (CONT.)

Additional Information, If Available:

(CONT) TRY TO TAKE [redacted] TO THE FLOOR, WHICH HE DID. IN THE PROCESS, [redacted] STRUCK HIS HEAD OVER THE LEFT EYE, CAUSING THE SKIN THERE TO SPLIT. IT IS NOT KNOWN WHAT EXACTLY [redacted] HIT HIS HEAD ON. STILL STRUGGLING DEPUTY KLUTH WAS ASSISTED BY DEPUTIES [redacted], GARY SLOAN, AND [redacted] WHO ARRIVED IN THE MODULE. THE DEPUTIES WERE ABLE TO HANDCUFF AND RIP HOBLE [redacted] NO FURTHER FORCE WAS USED. DEPUTY KLUTH WAS INJURED WHEN HE STRUCK HIS RIGHT ELBOW ON THE CONCRETE FLOOR, (REFER TO EMPLOYEE INJURY PACKET URN # 494-03358-5100-502.

Witness Statements:

SUPPLIMENTAL REPORTS WERE WRITEN BY ASSISTING DEPUTIES. REFER TO SHAO 49 URN# 094-03357-S100-058

Medical Staff Statements:

INMATE [redacted] WAS TAKEN TO THE CENTRAL JAIL CLINIC WHERE HE WAS EXAMINED BY DR. PECK. DR. PECK ORDERED [redacted] TO BE TAKEN TO THE L.A. COUNTY/USC MEDICAL CENTER FOR THE SUTURING OF A 3/4 INCH CUT OVER HIS LEFT EYE. DR. PECK SAID THAT THE CUT WAS CONSISTENT WITH THE STRIKING OF THAT AREA ON A HARD OBJECT. [redacted] ALSO HAD SEVERAL OTHER MINOR FACIAL CUTS.

AT L.A. COUNTY/USC MEDICAL CENTER, WILLIAMS WAS EXAMINED BY DR HALUS WHO STITCHED THE CUT AND ORDERED [redacted] HELD AT THE FACILITY FOR A 24 HR. OBSERVATION PERIOD.

EXHIBIT F

OFFICE CORRESPONDENCE

DATE: October 27, 1994

**FROM: CHARLES DUNCAN, SERGEANT
CENTRAL JAIL**

**TO: AL SCADUTO, CAPTAIN
CENTRAL JAIL**

SUBJECT: USE OF FORCE

INMATE: [redacted] **MB/40 #**[redacted]
LOCATION: **MODULE 4400 (SALLYPORT AREA)**
DATE/TIME/DAY: **10-27-94/1230 HOURS/THURSDAY**
PRIMARY DEPUTY: **KLUTH, DAVID** [redacted]
SLOAN, GARY [redacted]

Incident Overview:

See Sergeant Van Mosley's force memorandum.

Witness Statements:

Inmate [redacted] was interviewed in the clinic area of the Central Jail clinic. The inmate was video taped, documenting his physical appearance and my interview of him concerning the incident. Inmate [redacted] stated that he was in his cell, writing a letter to his wife, when "bloods" attacked him and almost killed him. He said that he yelled for the deputies to help. He said the deputies let him out of his cell and saved his life. I observed that the inmate had a deep laceration over his left eye and bumps on his forehead. I asked the inmate how he was injured. He said that the "bloods" hit and kicked him and would have killed him, if the deputies had not saved him.

I had talked to the deputies involved and was told that the inmate had not fought with other inmates, but had in fact fought with the deputies. The deputies admitted injuring the inmate when they were fighting him. I asked Inmate [redacted] if he had any type of an altercation with any deputy and he said "no, the deputies saved me". Inmate [redacted] admitted to having past mental problems and had been in State and County mental institutions in the past. Inmate [redacted] talked very rationally and seemed to truly believe what he was telling me.

Medical Staff Statements:

Dr. Peck, the on call doctor at the Central Jail clinic ordered that the inmate be taken to L.C.M.C. by ambulance immediately, due to his head injury. The doctor wanted the inmate examined for possible internal injury to the head. The inmate was transported by Risher #61, ambulance service. Deputies Romaski and Nowotny accompanied the inmate in the ambulance. Dr. Halus, L.C.M.C., did not know if the inmate would be admitted to the hospital, but he was going to keep him long enough to evaluate the extent of his head injury.

Findings/Recommendation:

The force used was necessary and justified under the circumstances. The threat of the inmate should have been better recognized, which would have dictated better and safer tactics. There should have been at least two deputies out side the booth and one deputy inside the control booth prior to contacting the inmate, who had already demonstrated his defiant demeanor before the deputy approached the inmate. Sergeant Mosley had these same concerns and conveyed to the deputies some alternatives that could have been safer. The deputies listened and accepted the critique in a very positive manner.

ADDITIONAL INFORMATION:

Inmate [redacted] incurred a head injury that was a result of force used by deputy personnel. The inmate was then transported to L.C.M.C. for treatment and observation. These facts dictated that Internal Affairs be notified, which they were. Lt. D. Burns [redacted] was advised of the incident at 0155 hours. After listening to the details f the incident, I was told by Lt. Burns that he was not going to respond this evening, but would call L.C.M.C. in the morning. If Inmate [redacted] was in fact admitted, then he would respond to Central Jail and conduct an investigation.

SUSPECT INFORMATION

Last Name: [redacted] First Name: [redacted] M.I. -

Residence: [redacted] Phone #:

Race: B Sex: M Age: 40 Height: 5'10" Weight: 160 Booking #: [redacted]

245(A)(1) P.C. — Primary charge

14601.1 AVC — Secondary charge

Intoxication/Drug Usage: Yes (No) Type:

Weapon Involved: Yes (No) Type

Injury/Medical Treatment: YES

Photos: (Yes) No

Hospitalization (Yes) No Where: LCMC

INCIDENT INFORMATION

Date: 10-27-94 Time: 0020 Type of Force: HANDS / FIST

Location: MENS CENTRAL JAIL

Informant: [redacted] [redacted] [redacted]

Last Name First Name M.I.

Address Phone #

Witness:

Last Name First Name M.I.

Address Phone #

Watch Commander Interview: Date: Time: Tape: Yes No

Watch Commander's Signature: Copy Provide to Employee By:

SUPERVISOR'S REPORT
USE OF FORCE

Date: 27 OCT 94 File # 094-03357-5100-058

Bureau/Station/Facility: MCJ

EMPLOYEE INFORMATION

Last Name	First Name	M.I.
KLUTH	DAVID	A

Employee # [redacted] Race W Sex M Age 28 Height 511 Weight 180

Unit of Assignment: MCJ (if different from above)

Work Assignment (Unit #, Module, etc.) 4400 MODULE

Shift: [redacted]

Injury/Medical Treatment to Employee ______

Hospitalization Yes No Where: ______

ASSOCIATED EMPLOYEES

(Place Name and Employee # in space provided)

Partner: DEP SLOAN [redacted] Watch Sergeant: SGT KEY

On Duty Supervisor: SGT. MOSLEY Watch Commander: SGT DUNCAN

Was supervisor present during incident? Yes (No)

Supervisor's Name, Rank and Employee # MOSLEY SGT [redacted]

Supervisor Completing Form: ______

(over)

SUSPECT INFORMATION

Last Name: [redacted] First Name: [redacted] M.I.

Residence: [redacted] Phone # [redacted]

Race: B Sex: M Age: 40 Height: 510 Weight: 160 Booking #: [redacted]

245(A)(1) PC — Primary charge

1203.2 P.C — Secondary charge

Intoxication/Drug Usage: Yes (No) Type:

Weapon Involved: Yes (No) Type

Injury/Medical Treatment: HELD FOR (24) HR OBS.

Photos: (Yes) No

Hospitalization (Yes) No Where: LCMC

INCIDENT INFORMATION

Date: 27OCT94 Time: 0030 Type of Force:

Location: MODULE 4400

Informant:

Last Name First Name M.I.

Address Phone #

Witness:

Last Name First Name M.I.

Address Phone #

Watch Commander Interview: Date: 10-27-94 Time: 1300HRS Tape: (Yes) No

Watch Commander's Signature: [signature] Copy Provide to Employee By:

SUPERVISOR'S REPORT
USE OF FORCE

Date: 10-27-94 File # 094-03357-5100-058

Bureau/Station/Facility: MENS CENTRAL

EMPLOYEE INFORMATION

SLOAN	GARY	P
Last Name	First Name	M.I.

Employe [redacted] Race W Sex M Age 28 Height 5'10" Weight 210

Unit of Assignment: MENS CENTRAL JAIL (if different from above)

Work Assignment (Unit #, Module, etc.) BSMNT KIT

Shift: [redacted]

Injury/Medical Treatment to Employee NONE

Hospitalization Yes $\boxed{\text{No}}$ Where:

ASSOCIATED EMPLOYEES

(Place Name and Employee # in space provided)

Partner: KLUTH [redacted] Watch Sergeant: KEY

On Duty Supervisor: SGT MOSLEY Watch Commander: A/LT DUNCAN

Was supervisor present during incident? Yes $\boxed{\text{No}}$

Supervisor's Name, Rank and Employee # SGT. MOSLEY [redacted]

Supervisor Completing Form:

(over)

SUSPECT INFORMATION

Last Name: [redacted] First Name: [redacted] M.I.

Residence [redacted] Phone # [redacted]

Race BLK Sex: M Age: 40 Height: 5'10 Weight: 160 Booking # [redacted]

245(A)(1) PC ____ 1203.2 PC

Primary charge — Secondary charge

Intoxication/Drug Usage: Yes (No) Type:

Weapon Involved: Yes (No) Type

Injury/Medical Treatment: HELD FOR 24 HR OBS.

Photos: (Yes) No

Hospitalization (Yes) No Where: LCMC

INCIDENT INFORMATION

Date: 27 OCT 94 Time: 0030 Type of Force:

Location: MODULE 4400

Informant:

Last Name First Name M.I.

Address Phone #

Witness:

Last Name First Name M.I.

Address Phone #

Watch Commander Interview: Date: ____ Time: ____ Tape: Yes No

Watch Commander's Signature: ____ Copy Provide to Employee By: ____

Distribution: O.P.E.S./ Unit Commander / Employee

SUPERVISOR'S REPORT
USE OF FORCE

Date: 10-27-94 File # 094-03357-5100-058

Bureau/Station/Facility: CUSTODY MCJ

EMPLOYEE INFORMATION

[redacted] [redacted] [redacted]

Last Name First Name M.I.

Employee # [redacted] Race B Sex M Age 40 Height 5'10" Weight 160

Unit of Assignment: ______ (if different from above)

Work Assignment (Unit #, Module, etc.) 3000 PROWL

Shift: [redacted]

Injury/Med[redacted] ______

______

Hospitalization Yes No Where: ______

ASSOCIATED EMPLOYEES

(Place Name and Employee # in space provided)

Partner: [redacted] Watch Sergeant: KEY

On Duty Supervisor: MOSLEY Watch Commander: A/ DUNCAN

______ ______

______ ______

Was supervisor present during incident? Yes **No** (circled)

Supervisor's Name, Rank and Employee # SGT V. MOSLEY [redacted]

Supervisor Completing Form: ______

(over)

SUPERVISOR'S REPORT
USE OF FORCE

Date: 10-27-94 File # 094-03357-5100-058

Bureau/Station/Facility: MCJ

EMPLOYEE INFORMATION

[redacted] [redacted] [redacted]

Last Name First Name M.I.

Employee # [redacted] Race W Sex M Age 29 Height 5'11 Weight 200

Unit of Assignment: ______ (if different from above)

Work Assignment (Unit #, Module, etc.) 56-59 PROWL

Shift: [redacted]

Injury/Medical Treatment to Employee N/A

Hospitalization Yes (No) Where:

ASSOCIATED EMPLOYEES

(Place Name and Employee # in space provided)

Partner [redacted] Watch Sergeant: SGT. KEY

On Duty Supervisor: SGT. MOSLEY Watch Commander: A/LT. DUNCAN

Was supervisor present during incident? Yes (No)

Supervisor's Name, Rank and Employee # SGT. V. MOSLEY [redacted]

Supervisor Completing Form:

(over)

SUSPECT INFORMATION

Last Name: [redacted] First Name: [redacted] M.I. [redacted]

Residence: [redacted] Phone #:

Race: B Sex: M Age: 40 Height: 510 Weight: 160 Booking #: [redacted]

245(A)(1) P.C. — Primary charge

14601.1 A V.C. — Secondary charge

Intoxication/Drug Usage: Yes (No) Type:

Weapon Involved: Yes (No) Type

Injury/Medical Treatment:

Photos: (Yes) No

Hospitalization Yes No Where:

INCIDENT INFORMATION

Date: 10/27/94 Time: 0030 HRS Type of Force:

Location: MODULE 4400

Informant:
Last Name First Name M.I.
Address Phone #

Witness:
Last Name First Name M.I.
Address Phone #

Watch Commander Interview: Date: Time: Tape: Yes No

Watch Commander's Signature: Copy Provide to Employee By:

Distribution: O.P.E.S./ Unit Commander / Employee

EXHIBIT G

LOS ANGELES COUNTY SHERIFF'S DEPARTMENT INMATE INJURY REPORT

FILE NUMBER	UNIT
094-03357-5100-058	MCJ

INMATE LAST NAME	INMATE FIRST NAME	MI	BOOKING NUMBER	HOUSING LOCATION
[redacted]	[redacted]	[redacted]	[redacted]	4400

INCIDENT DATE	TIME	INCIDENT LOCATION
10-27-94	0030	4400 - SALLYPORT AREA

TREATED BY (MEDICAL STAFF)	BADGE NUMBER	DATE TREATED	TIME
INES LEAL RN	[redacted]	10/27/94	0045

DESCRIPTION OF INJURY / MEDICAL DISPOSITION

laceration (Lt) eyebrow approx 1½ inche, Superficial scratches on (Rt) forehead & Rt side of the nose, nose swollen & bruised, Superficial cut on lower lip approx ¼ inch & (Lt) ½" Superficial laceration (Lt) ankle. All injuries cleaned, pressure dressing to (Lt) eyebrow. TO LCMC for further treatment per Dr. Peck.

I Leal [redacted]
MEDICAL STAFF SIGNATURE

NARRATIVE

I/M [redacted] WAS INVOLVED IN AN ALTERCATION WITH DEPUTY PERSONNEL. (REFER TO ATTATCHED USE OF FORCE PACKET)

I SAW I/M [redacted] HAD SEVERAL SMALL LACERATIONS AND SCRATCHES ON AND ABOUT HIS HEAD AND FACE. (1½" LACERATION - OVER TO HIS LEFT EYEBROW; ¼" LACERATION - RT SIDE OF HIS NOSE, ¼" LACERATION ON HIS L/ LOWER INNER LIP) ALL OF THESE INJURIES WERE BLEEDING

(CONTINUE ON NEXT PAGE, IF NEEDED)

SUBMITTED BY	EMPLOYEE NUMBER
DEP. [redacted]	[redacted]

WATCH SERGEANT	WATCH COMMANDER	UNIT COMMANDER
V. M[signature]	[signature]	

NARRATIVE (CONTINUED)

MODERATELY. I ALSO SAW HE HAD A ½" LACERATION ACROSS THE TOP OF HIS L/ HEEL, BLEEDING SLIGHTLY. I/M [illegible] ALSO HAD SUPERFICIAL SWELLING ACCOMPANYING HIS LACERATIONS. I SAW NO FURTHER VISIBLE PHYSICAL INJURY.

I/M [redacted] WAS TAKEN TO THE CLINIC VIA GURNEY. HE WAS SEEN AND INITIALLY TREATED BY NURSE LEAL [redacted]. I/M [redacted] WAS THEN TRANSFERRED TO LCMC PENDING FURTHER MEDICAL ATTENTION.

INMATE STATEMENT

BECAUSE OF I/M [redacted] UNPREDICTABLE BEHAVIOR AND MENTAL DISPOSITION, I WAS UNABLE TO GET A WRITTEN STATEMENT.

DEP. [redacted] # [redacted]

SIGNATURE

WITNESS INFORMATION

INMATE LAST NAME	INMATE FIRST NAME	MI	BOOKING NUMBER

ADDRESS

WITNESS STATEMENT

SIGNATURE

EXHIBIT H

EXHIBIT I

761551N25A - SH-AD-32A (2/72) -

COUNTY OF LOS ANGELES

SHERIFF'S DEPARTMENT

DATE: Oct. 28, 1994

OFFICE CORRESPONDENCE FILE NO.

FROM: NORM WILLIAMS, SERGEANT
DAY SHIFT

TO: MARK MILBURN, LIEUTENANT

SUBJECT: INMATE [redacted] BKG #[redacted]

At 11:00 this date, I conducted a follow-up investigation regarding the use of force incident involving Deputy Kluth on October 27, 1994.

The following inmates who were in the same cell (4400 B-4) as Inmate [redacted] were:

[redacted]

They all stated that nothing unusual happened preceding the fight with Deputy Kluth and there had been no problems with any of the inmates housed in the cell. However, all the inmates agreed that Inmate [redacted] had some sort of mental problems and would walk the row without permission every time the cell gate would open. Each time this occurred, Inmate [redacted] would have to be coaxed back into the cell by the inmates and the module deputy. Finally, when Inmate [redacted] just would not return to his cell, Deputy Kluth had to make physical contact with Inmate [redacted] in an attempt to place him in his cell.

Inmate [redacted] said that he walked out of the cell with Inmate [redacted] at the time of the incident. He said that Deputy Kluth tried to get them both back into the cell at the same time, however he went to the shower area instead. The shower area is at the front of the row and Inmate [redacted] said that he saw the whole incident. After several attempts to coax Inmate [redacted] back into the cell, Deputy Kluth walked around and placed one hand on [redacted] shoulder. As soon as he did that, Inmate [redacted] turned around and grabbed Deputy Kluth around the neck. Inmate [redacted] added that [redacted] had no injuries prior to his fight with the deputies.

EXHIBIT J

COUNTY OF LOS ANGELES

SHERIFF'S DEPARTMENT

DATE: October 31, 1994

OFFICE CORRESPONDENCE FILE NO. 094-03357-5100-058

FROM: CHARLES DUNCAN, SERGEANT
CENTRAL JAIL

TO: JOHN NEMETH, SERGEANT
INTERNAL AFFAIRS BUREAU

SUBJECT: ADDITION INFORMATION REGARDING USE OF FORCE INMATE [redacted]

On 10-27-94, on the early morning shift, I was assigned as the watch commander. A use of force, which occurred in module 4400, was reported to me by Sergeant Van Mosley. The deputies involved were Kluth, David [redacted], [redacted] and Sloan, Gary [redacted]. After they described their individual actions and the type and degree of force they used, I asked them individually if any one kicked the inmate or used a flashlight or impact weapon to subdue the inmate. They all responded by saying "no". I asked if there were any deputy or inmate witnesses. Again they all stated no. I asked that they go back to the module and check with the trusties to ascertain if they observed the deputies actions. Deputy Sloan stated that he had already specifically asked the trusties, and they told him that as soon as they heard a disturbance between the deputy and the inmate, they went into their cells and did not see anything. None of the deputies said anything about an inmate in the shower area of module 4400 that saw every ones actions.

EXHIBIT K

761551N25A - SH-AD-32A (2/72) -

COUNTY OF LOS ANGELES

SHERIFF'S DEPARTMENT

DATE: August 25, 1993

OFFICE CORRESPONDENCE FILE NO.

FROM: AL SCADUTO, CAPTAIN
CENTRAL JAIL

TO: ALL PERSONNEL

SUBJECT: UNIT ORDER NO. 5.01/011
CONFRONTATIONS WITH HOSTILE OR AGGRESSIVE INMATES
(REVISION OF UNIT ORDER DATED MARCH 02, 1992)

Purpose of Order

The purpose of this order is to establish the policy of this facility regarding the removal of aggressive or hostile inmates from cell areas and non-confined areas.

Scope of Order

This order shall apply to all personnel assigned to Central Jail.

Order

The primary concern when extracting an inmate from a confined area is the safety of staff and inmates. Deputies encountering aggressive inmates shall be guided by the following:

Inmates within cells:

Aggressive inmates who are confined within their cells shall be left in their cells until a supervisor arrives to evaluate the situation. If the inmate needs to be removed from his cell and the inmate is still aggressive, the supervisor shall utilize an extraction team. When dealing with armed inmates, the inmate will be considered armed until an extraction team has removed the inmate and searched him. At no time will deputies make an attempt to handcuff any armed inmate still in his cell. Time is on your side.

When dealing with unarmed or non-aggressive inmates, every attempt should be made to handcuff the inmate prior to opening the cell gate.

Non-Confined Inmates:

Inmates who display hostile or aggressive behavior while in a non-secure area pose the greatest danger to deputy personnel and other inmates. Again, the manner in which deputy personnel approach these situations can have either a positive or negative impact on the outcome. Tac-Comm training and Verbal Judo techniques can often defuse the hostility, or allow enough time for assisting personnel to arrive on the scene.

The sergeant shall evaluate the situation to determine if special weapons, i.e. Stingball, ARWEN, or Taser, should be deployed prior to entry (Custody Division Policy and Procedures, 3-030/00 Deployment of Special Weapons). The Watch Commander shall be notified to authorize the use of these special weapons.

When using the Taser weapon, the floor sergeant shall obtain permission from the Watch Commander. The medical staff shall be notified and requested to be present prior to its use.

The use of O.C. Spray by the supervisor may be an effective alternative to force.

Inmates who display any behavior that indicates that they may become violent should be handcuffed as soon as possible. If the officer feels that he does not have sufficient back-up, it may be wise to wait for the handcuffing process.

Clothing rooms, dayrooms, and similar secluded areas should not be utilized, if at all possible, when dealing with hostile inmates. Every attempt should be made to direct the inmate to an area consistent with tactical requirements so that back-up can be summoned by others, if necessary. Benches near floor control booths will enable deputies to secure problem inmates pending the outcome of the investigation, or the writing of an Inmate Incident report, Complaint reports, etc.

In all instances, inmates will be removed and taken to the clinic for medical evaluation.

In all instances where special weapons are deployed, the floor sergeant shall write a brief memo to the unit training staff on the weapons effectiveness, in addition to what is required by current policy relating to the Use of Force, refer to Department Policy and Procedures Manual section, 3-01/030.20 Use of Force and Custody Division Policy and Procedures Section, 3-015/00 Use of Force.

AS:dr

EXHIBIT L

EXHIBIT M

EXHIBIT N

EXHIBIT O

EXHIBIT P

[redacted]

COUNTY OF LOS ANGELES - SHERIFF'S DEPARTMENT

SUPPLEMENTARY REPORT

Date: January 5, 1995

File No: 494-00023-2300-444

C- Suspicious Circumstances, Possible Assault Under the Color of Authority, 149 PC

Action Taken: Active/ Additional Information

V- N/A

I- [redacted]MB/A, Booking No. [redacted]

W- Deputy Cesar Romero, Emp. #[redacted], Men's Central Jail

D- October 27, 1994, at approximately 0030 hrs.

L- Men's Central Jail, Module 4400

S- N/A

On December 7, 1994, at approximately 0049 hrs., Sergeant Ron Bell and I interviewed Deputy Cesar Romero, at Men's Central Jail regarding an altercation between Inmate [redacted] and deputy personnel assigned to the facility. The interview was tape recorded.

Deputy Romero said that on October 27, 1994, while assigned to the 9000 floor ([redacted]), he heard a disturbance call and went to assist. He, along with Deputies Richard Barrett #[redacted], John Broad #[redacted], and Todd Kammer #[redacted], left the 9000 floor and went to module 4400 where the incident was located. Deputy Barrett held the door open while the other three deputies entered. Deputy Romero saw three other deputies struggling with a handcuffed inmate (later identified as [redacted]) by the "B/D" row gates. The inmate was laying on his stomach "squirming" around on the floor, while the deputies were trying to control him. Deputy David Kluth [redacted] held the inmate's upper torso down while Deputy [redacted] ([redacted]) and Deputy [redacted] held his mid-section and legs, respectively. As Deputy Romero entered the module, Deputy Gary Sloan ([redacted]) asked him to relieved him in the booth so he (SLOAN) could assist with the inmate. Deputy Romero did so and watched the incident from the booth door.

Deputy Sloan and Deputy [redacted] grabbed the inmate's legs and positioned them to be hobbled.

The hobble restraint was applied to the inmate's feet and he was then placed on his side. Deputy Romero could not remember who applied the restraints, but he believed it was Deputy Kluth. Afterwards, Deputies Kluth and Sloan entered the booth and talked while Deputies [redacted] and [redacted] rested in the sallyport area.

Deputy Romero said that Deputies Barrett, Broad, and Kammer just watched the entire event, they never participated. Deputies Broad and Kammer stood in the middle of the sallyport area, a few feet in front of the main module door, and Deputy Barrett maintained his position at the module door.

Deputy Romero noticed that the inmate had suffered a head or facial injury and was bleeding. There was also blood on the floor. The inmate did not appear to be in much pain. The majority of the time he laid quietly on the floor. In addition, Deputy Romero said he saw a person standing in the "B" row shower during the incident. He described the individual as a male black, NFD, but he was not certain.

Deputy Romero said that he did not, at any time, see any deputy punch, kick, or strike the inmate with any impact weapon, or did he assault the inmate.

Deputy Romero estimated that he was in module 4400 for about five (5) minutes.

Note: On January 30, 1995, at approximately 2334 hrs., Sergeant Ron Bell and I re-interviewed Deputy Romero, at MCJ, to determine if he had any additional information regarding the incident. His statement was essentially the same as the first (tape available).

Sergeant Eric K. Hamilton, Emp. #[redacted]
Internal Criminal Investigations Bureau
Professional Standards and Training Division

Approved By: Gerald Burns Lt. **Date:** 2-7-95

EXHIBIT Q

COUNTY OF LOS ANGELES - SHERIFF'S DEPARTMENT

SUPPLEMENTARY REPORT

Date: January 31, 1995

File No: 494-00023-2300-444

C- Suspicious Circumstances, Possible Assault Under the Color of Authority, 149 PC

Action Taken: Active/ Additional Information

V- N/A

I- [redacted] MB/A, Booking No. [redacted]

W- Deputy Richard Barrett, Emp. [redacted]

D- October 27, 1994, at approximately 0030 hrs.

L- Men's Central Jail, Module 4400

S- N/A

On December 6, 1994, at approximately 2356 hrs., Sergeant Ronald Bell and I interviewed Deputy Richard Barrett, at Men's Central Jail (MCJ), regarding an altercation between Inmate [redacted] and deputy personnel. The interview was tape recorded.

Deputy Barrett said that on October 27, 1994, he was assigned to the 9000 floor ([redacted]) when he heard an "all call", via the public address system, announcing a deputy involved disturbance. Initially, he was uncertain where the disturbance was located but eventually discovered it was in module 4400. He entered the module and saw two deputies (David KLUTH and Gary SLOAN) and an inmate near the B/D row gates. The inmate was hobbled and the deputies were kneeling next to him. The altercation seemed to have concluded just prior to Deputy Barrett's arrival, because the two deputies were breathing rapidly. He determined that the incident was essentially stabilized so he stood by the main module door, for approximately one minute, and then returned to the 9000 floor to resume his work. He estimated that he was in the module for no more than two minutes.

Deputy Barrett said that he saw Deputy Cesar Romero (9000 floor deputy), in module 4400, standing by the booth door watching the incident. He also thought there were additional deputy personnel present, but he was unable to recall their identities.

In addition, Deputy Barrett said that he saw two inmates who were possible witnesses to the confrontation. The first inmate was standing in the "B" row showers and was described as a male white, 25 to 26. The second inmate was located in the laundry room, next to the main module door, and was described a male black, 6' to 6'1", wearing a blue jumpsuit. Both inmates were positioned to see the entire the incident. My investigation revealed the inmates were [redacted] and [redacted]

Deputy Barrett said that he did not participate in the incident, nor did he see any deputy punch, kick, or strike the hobbled inmate with any impact weapon.

Note: On January 31, 1995, Sergeant Ron Bell and I re-interviewed Deputy Barrett, at MCJ, to determine if he had any additional information regarding the incident. His statement was essentially the same as the first (tape available).

Sergeant Eric K. Hamilton, Emp. [redacted]
Internal Criminal Investigations Bureau
Professional Standards and Training Division

Approved By: [signature] **Date:** 2-7-95

EXHIBIT R

COUNTY OF LOS ANGELES - SHERIFF'S DEPARTMENT

SUPPLEMENTARY REPORT

Date: January 5, 1995

File No: 494-00023-2300-444

C- Suspicious Circumstances, Possible Assault Under the Color of Authority, 149 PC

Action Taken: Active/ Additional Information

V- N/A

I- [redacted] MB/A, Booking No. [redacted]

W- Deputy Todd Kammer, Emp. [redacted], Men's Central Jail

D- October 27, 1994, at approximately 0030 hrs.

L- Men's Central Jail, Module 4400

S- N/A

On December 20, 1994, at approximately 0103 hrs., I interviewed Deputy Todd Kammer, at Men's Central Jail, regarding an altercation between Inmate [redacted] and deputy personnel assigned to the facility. The interview was tape recorded.

Deputy Kammer said that on October 27, 1994, early morning shift, he was assigned as the 9000 floor roving deputy. During the shift 5000 floor personnel announced, over the public address system, a disturbance in module 4400. Deputy Kammer, along with Deputy John Broad ([redacted]) and Deputy Cesar Romero ([redacted]), went to the module to provide assistance. They entered the module and saw three deputies (David Kluth #[redacted] #[redacted] and [redacted]) struggling with a bloody, screaming inmate (later identified as [redacted]) near the "B/D" row gates. As they entered, Deputy Sloan directed Deputy Romero to relieve him in the booth so he (SLOAN) could help subdue the inmate. Deputy Romero did so and watched the incident from the booth.

Deputy Kammer said that the inmate was laying face down and the deputies were attempting to control him. Deputies Lucero and Schaap were positioned on the inmate's left side trying to control the upper and lower torso areas, while Deputies Kluth and Sloan were positioned on the inmate's right side trying to control the upper and lower torso areas.

Deputy Kammer said that the inmate continued to resist the deputies by "squirming" around and attempting to get to his feet.

Deputies Kammer and Broad grabbed the inmate's feet and held them to the floor. They did not want the inmate to kick the other four deputies. The deputies got the inmate's hands behind his back and handcuffed him. Deputy Kammer could not remember which deputy actually handcuffed the inmate, but he thought it was possibly Deputy [redacted] Once the handcuffs were on the inmate, Deputies [redacted] and Sloan took Deputies Kammer and Broad's positions at the inmate's legs. Deputies Kammer and Broad stood and they immediately noticed that Deputy Broad's finger had been injured and was bleeding. Deputy Kammer and Deputy Broad determined the incident was over, so they returned to the 9000 floor to treat Deputy Broad's injury and resume their work. As the two deputies were leaving Deputy Richard Barrett ([redacted]), 9000 floor personnel, had arrived. Deputies Barrett and Romero subsequently returned to the 9000 floor.

Deputy Kammer said that he did not see the inmate being hobbled. However, he later learned from Deputy Barrett that the inmate's legs were restrained shortly after his (Kammer) departure.

Deputy Kammer said that he did not assault the inmate nor did he see any other deputy punch, kick, or strike the inmate with any impact weapon.

Deputy Kammer said that the inmate had suffered a head/facial injury. Additionally, he said that he saw another inmate standing in the "B" row showers during the incident. He noticed the inmate because Deputy Sloan had ordered him to face the shower wall. The inmate was described as a male white, NFD. My investigation revealed the inmate was [redacted] (Bkg. [redacted]).

Sergeant Eric K. Hamilton, Emp. [redacted]
Internal Criminal Investigations Bureau
Professional Standards and Training Division

Approved By: Gerald Barnes Lt. **Date:** 2-7-95

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EXHIBIT S

COUNTY OF LOS ANGELES - SHERIFF'S DEPARTMENT

SUPPLEMENTARY REPORT

Date: January 31, 1995

File No: 494-00023-2300-444

C- Suspicious Circumstances, Possible Assault Under the Color of Authority, 149 PC

Action Taken: Active/ Additional Information

V- N/A

I- [redacted], MB/A, Booking No. [redacted]

W- Deputy John Broad, Emp. [redacted], (9000 floor prowler)

D- October 27, 1994, at approximately 0030 hrs.

L- Men's Central Jail, Module 4400

S- N/A

On December 21, 1994, at approximately 1118 hrs., I interviewed Deputy John Broad, at the Criminal Courts Building, regarding an altercation between Inmate [redacted] and deputy personnel assigned to Men's Central Jail. The interview was tape recorded.

Deputy Broad said that on October 27, 1994, while assigned to the 9000 floor ([redacted]), he heard a yell or a faint announcement of a disturbance. He ran to the 9000 floor hallway to determine the source of noise, but did not see or hear any commotion. However, he did notice Deputy Todd Kammer [redacted] and Deputy Cesar Romero [redacted] (9000 floor personnel) run down the escalator, so he followed them. They ran from the 5000 floor to 4000 floor searching for the disturbance. The 4000 floor booth deputy (Carol Howard) advised three deputies that the disturbance was in module 4400. They entered the module and found three to four deputies struggling with an inmate near the "B/D" row gates. The inmate was laying on his stomach with the deputies laying across his body. Two deputies were positioned on the inmate's right side while the other one or two were on his left side. Deputy Broad could not remember which deputy was located on the victim's right or left.

Note: The deputies were identified as David Kluth #[redacted], [redacted], and Gary Sloan #[redacted] Deputy Broad was uncertain whether or not all four deputies were restraining the inmate when he arrived at the module.

He seemed to think that there were only three deputies initially and then the fourth joined the group as the second wave of deputies (Broad's group) arrived.

Deputy Broad said that one of the four deputies repeatedly yelled at the inmate to place his hands behind his back. The inmate failed to comply and tried to roll on his side. The deputies got the inmate's left hand behind his back, but was unsuccessful with his right hand. The inmate had placed his right hand underneath his body. Deputy Broad and Deputy Kammer immediately grabbed the inmate's right and left lower legs, respectively, to prevent him from kicking the other deputies. They held onto the inmate's legs until the other deputies had restrained and handcuffed him. Deputy Broad did not know who had handcuffed the inmate. During the struggle Deputy Broad and Deputy Kammer had lifted and bent the inmate's legs to put them in a position to be hobbled. The handling deputies opted to merely handcuff the inmate at the time.

Deputy Broad eventually stood and noticed that his right index finger was bleeding. Once the incident was under control, Deputy Broad returned to the 9000 floor and treated his injury. He estimated that he was inside module 4400 for approximately one minute.

Deputy Broad said that he did not assault the inmate, nor did he see any other deputy punch, kick, or strike the inmate with any impact weapon. He did not see the deputy(s) place the hobble restraints on the inmate's legs. The application took place after he had left the module.

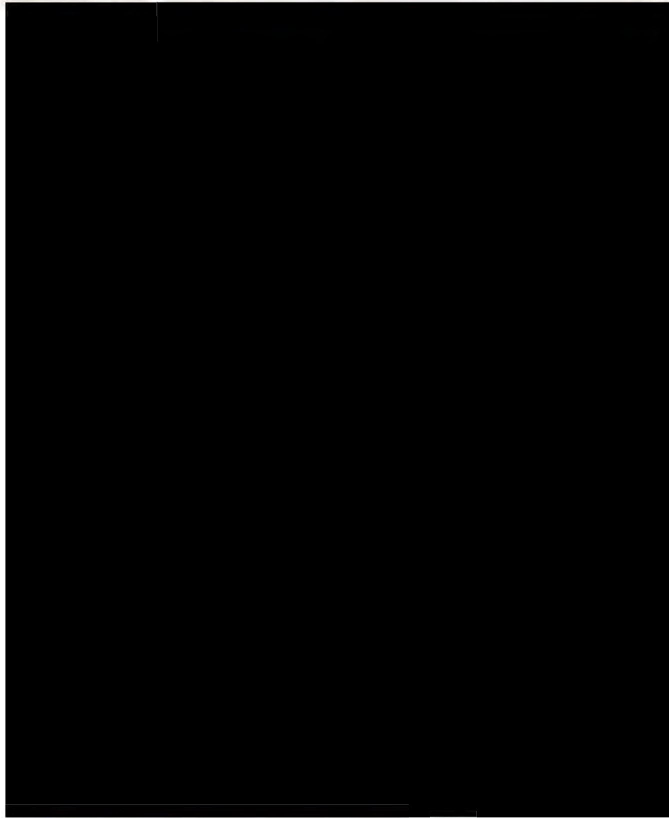
Deputy Broad said that Deputy Romero was positioned at or near the booth door during the entire incident. He never became involved in the actual altercation. Additionally, Deputy Broad said that he saw a male white inmate standing in the "B" row shower. My investigation revealed that the inmate was [redacted].

Sergeant Eric K. Hamilton, Emp. [redacted]
Internal Criminal Investigations Bureau
Professional Standards and Training Division

Approved By: Gerald Barnes Lt. **Date:** 2-8-95

EXHIBIT T

T



Complainant [redacted] displaying facial injuries (NOTE: Photos taken in clinic following force incident.)

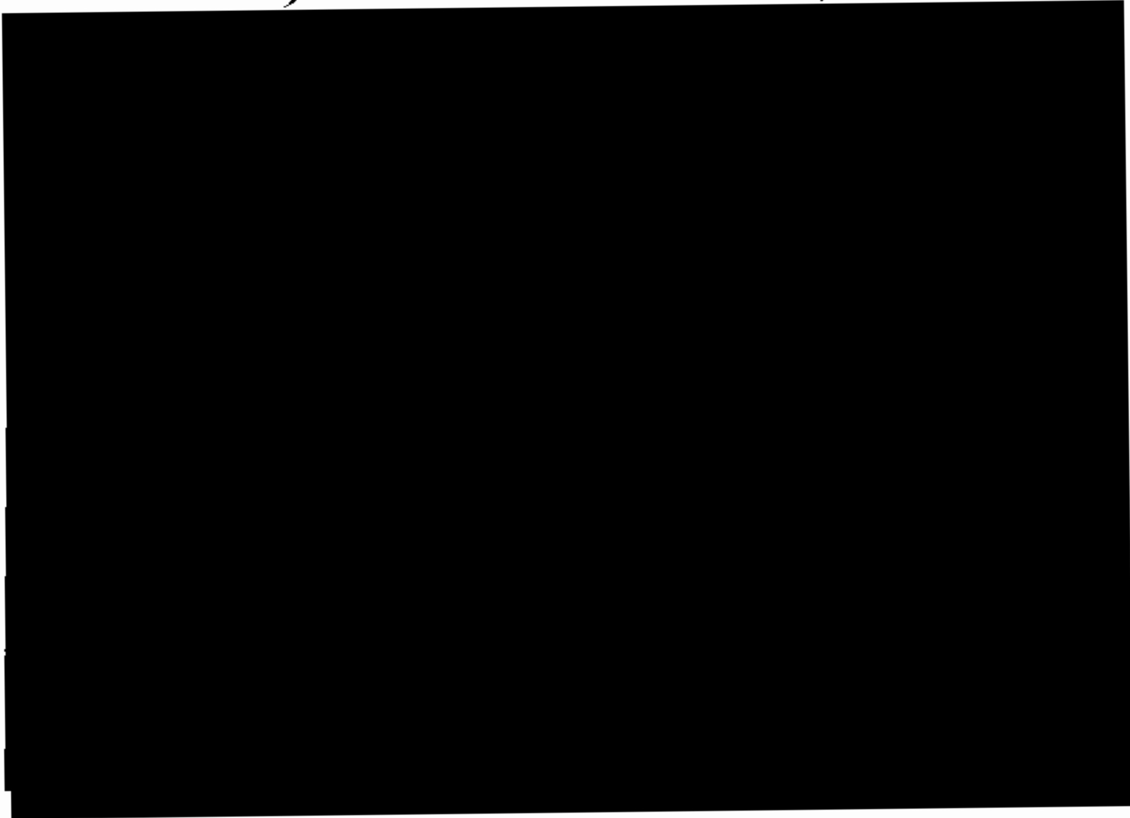
EXHIBIT U

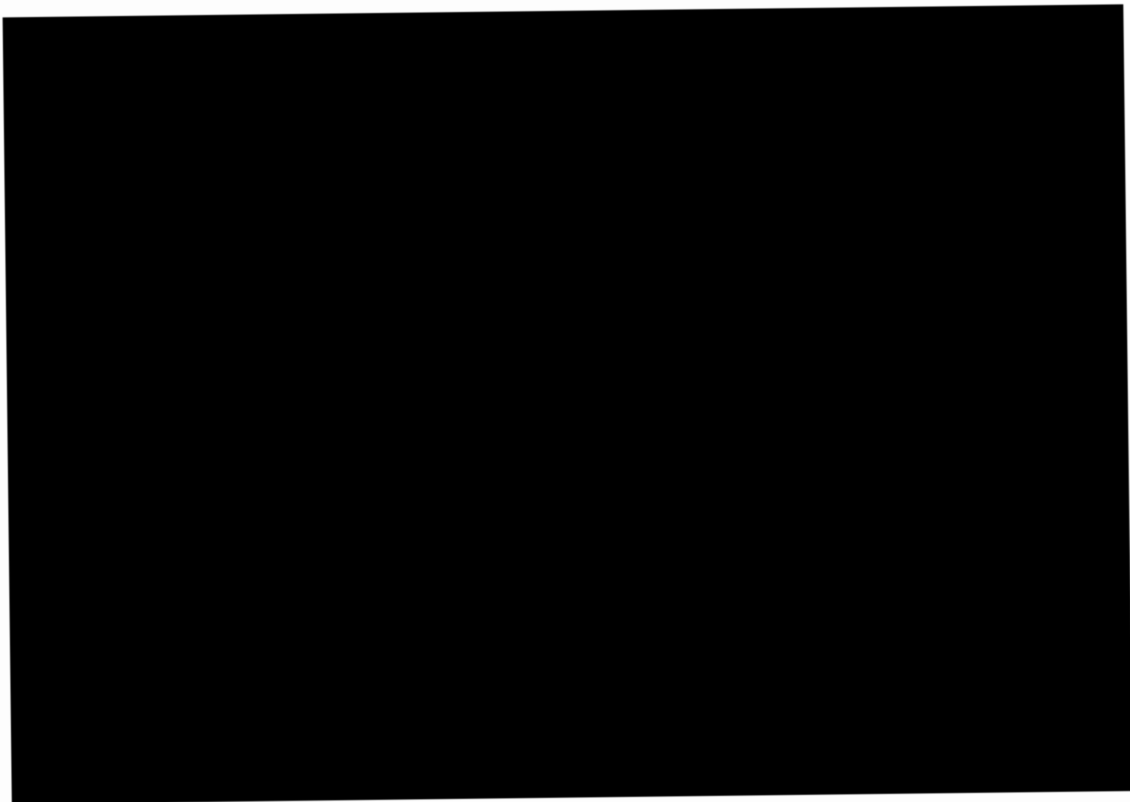
View of the back of Complainant [redacted] upper thighs and rear view of his left inner thigh. (NOTE: lack of injuries.)

View of the back of Complainant [redacted] upper thighs and rear view of his right inner thigh. (NOTE: lack of injuries).

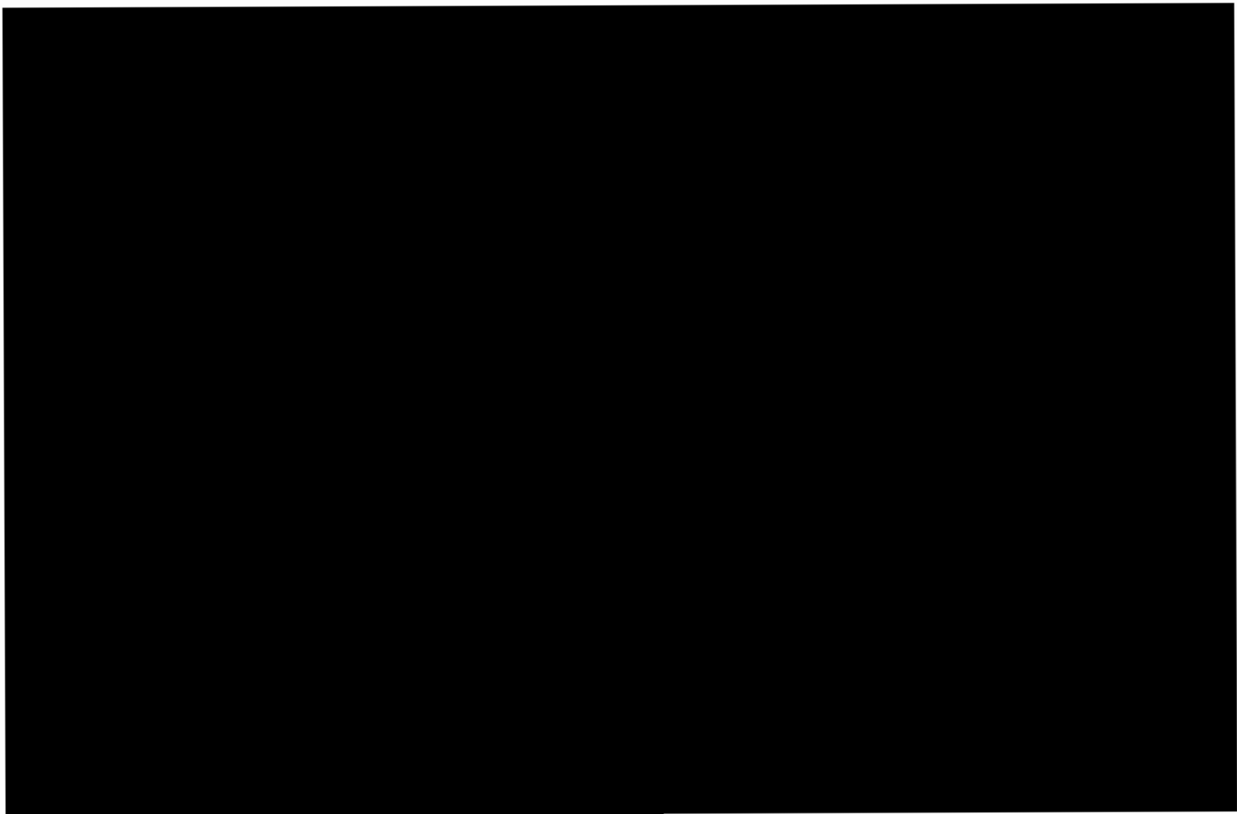
Complainant [redacted] displaying facial injuries (NOTE: All photos taken approximately 18 hours after force incident unless otherwise noted.)

Complainant [redacted] displaying laceration over outside corner of left eyebrow. (NOTE: 9 sutures were required to close the laceration.)





Photos showing injuries to Complainant [redacted] ankles consistent with the application of a hobble restraint.



Bruise to Complainant [redacted] upper right back/shoulder area.

Rear view of Complainant [redacted] lower buttocks and inner thigh area.

[redacted]

Top - View of [redacted]ower buttocks and rear inner thighs. Middle & Bottom - View of [redacted] scrotum displaying surgical scar where left testicle was removed.

EXHIBIT V

Module 4400 officer's booth door. To the left are the gates for "A" & "C" cell rows. To the right are the gates for "B" & "D" cell rows.

Wall in front of "A" & "C" rows, where Kluth placed Complainant [redacted] prior to altercation.

V

Pay phone in module 4400 where Witness Inmate [redacted] was when incident began. View is from area where Kluth and [redacted] were at start of incident.

View from pay phone to area where Kluth and [redacted] were at start of incident. To the left is the laundry room where [redacted] went after Kluth and [redacted] began fighting.

V

View from interior of laundry room to area where fight between Kluth and [redacted] culminated in front of the "B" row shower.

View of wall in front of "B" & "D" row gates. To the left is the "B" row shower and to the right is the mop closet.

View from interior of cell B-6 (Complainant [redacted] cell) looking toward sally port area where altercation occurred.

View from end of "D" row in front of cell D-13 looking towardport area where altercation occurred.

V

View of concrete floor in front of "B" row shower where Kluth and [redacted] were when back up deputies arrived. (NOTE: Floor of "B" row shower is approximately 3 feet lower than the concrete floor.)

View of inmate standing in "B" row shower where Witness Inmate [redacted] was standing during [redacted] altercation with deputies. (Witness [redacted] was facing foward).

V

View from "B" row shower looking toward area where altercation occurred between [redacted] and deputies.

Close up view from "B" row shower looking toward area where altercation occurred between [redacted] and deputies.

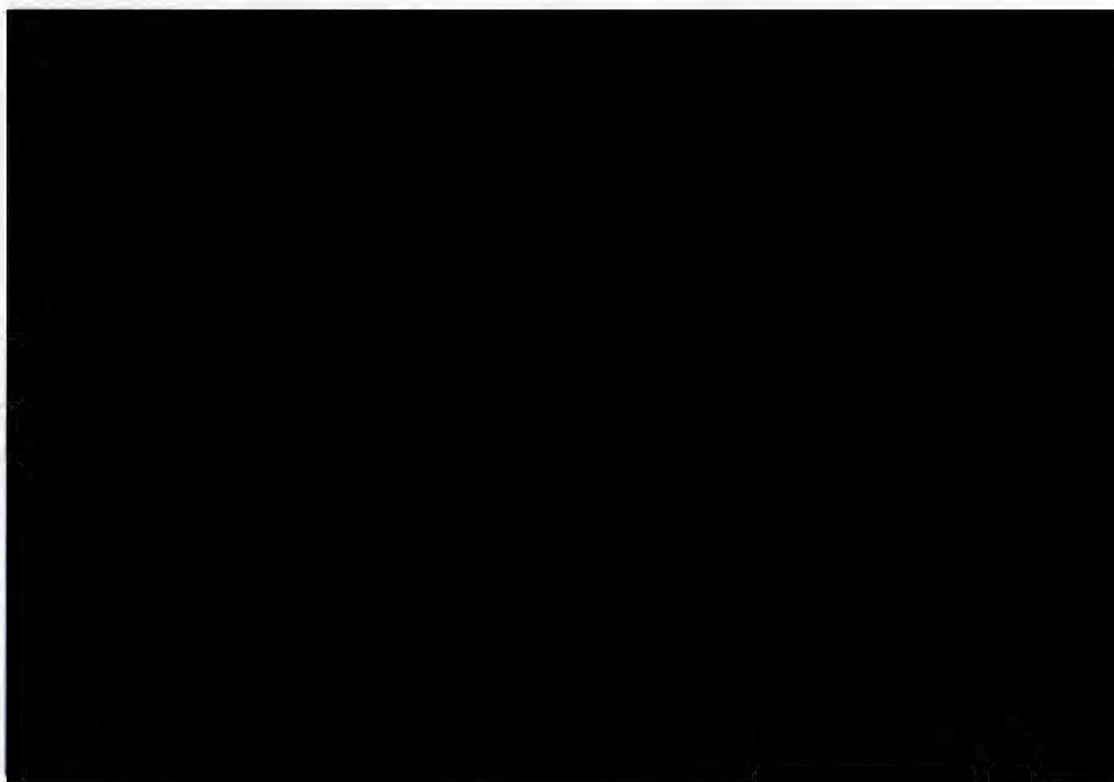
V

View from standing on "B" row looking toward sallyport and "B" row gate.

Module 4400 Deputy Security Booth (viewed from sallyport).

EXHIBIT W

Complainant [redacted] demonstrating his body position and how far his legs were pulled apart when he was kicked in the scrotum.



Witness [redacted].

EXHIBIT X

The following manual has been prepared for your information and guidance. These basic rules of conduct for all Custody Division employees require strict adherence at all times; violations may be grounds for dismissal, criminal prosecution, or disciplinary action.

I acknowledge that I have received a copy of Central Jail's Training Manual and that I have read Chapter 3 of the Custody Division Manual of Policy and Procedures and the foregoing excerpts of the Sheriff's Department Manual of Policy and Procedures and sections of the California Penal Code. I fully understand and accept the information contained therein.

[signature] 02-23-92

Signature of Employee Date

PRINT LAST NAME, FIRST NAME, M.I. EMPLOYEE NUMBER

The following manual has been prepared for your information and guidance. These basic rules of conduct for all Custody Division employees require strict adherence at all times; violations may be grounds for dismissal, criminal prosecution, or disciplinary action.

I acknowledge that I have received a copy of Central Jail's Training Manual and that I have read Chapter 3 of the Custody Division Manual of Policy and Procedures and the foregoing excerpts of the Sheriff's Department Manual of Policy and Procedures and sections of the California Penal Code. I fully understand and accept the information contained therein.

John R. Broad Jr. — Signature of Employee

05-17-93 — Date

BROAD, JOHN R. JR. — PRINT LAST NAME, FIRST NAME, M.I.

[redacted] — EMPLOYEE NUMBER

The following manual has been prepared for your information and guidance. These basic rules of conduct for all Custody Division employees require strict adherence at all times; violations may be grounds for dismissal, criminal prosecution, or disciplinary action.

I acknowledge that I have received a copy of Central Jail's Training Manual and that I have read Chapter 3 of the Custody Division Manual of Policy and Procedures and the foregoing excerpts of the Sheriff's Department Manual of Policy and Procedures and sections of the California Penal Code. I fully understand and accept the information contained therein.

Todd M Kammer
Signature of Employee

02-02-92
Date

KAMMER, TODD M.
PRINT LAST NAME, FIRST NAME, M.I.

[redacted]
EMPLOYEE NUMBER

The following manual has been prepared for your information and guidance. These basic rules of conduct for all Custody Division employees require strict adherence at all times; violations may be grounds for dismissal, criminal prosecution, or disciplinary action.

I acknowledge that I have received a copy of Central Jail's Training Manual and that I have read Chapter 3 of the Custody Division Manual of Policy and Procedures and the foregoing excerpts of the Sheriff's Department Manual of Policy and Procedures and sections of the California Penal Code. I fully understand and accept the information contained therein.

[signature] 01/05/92

Signature of Employee Date

KLUTH, DAVID A [redacted]

PRINT LAST NAME, FIRST NAME, M.I. EMPLOYEE NUMBER

The following manual has been prepared for your information and guidance. These basic rules of conduct for all Custody Division employees require strict adherence at all times; violations may be grounds for dismissal, criminal prosecution, or disciplinary action.

I acknowledge that I have received a copy of Central Jail's Training Manual and that I have read Chapter 3 of the Custody Division Manual of Policy and Procedures and the foregoing excerpts of the Sheriff's Department Manual of Policy and Procedures and sections of the California Penal Code. I fully understand and accept the information contained therein.

[redacted] 2/2/92
Date

[redacted] [redacted]
PRINT LAST NAME, FIRST NAME, M.I. EMPLOYEE NUMBER

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[redacted] 11/22/92

Signature of Employee Date

[redacted] [redacted]

PRINT LAST NAME, FIRST NAME, M.I. EMPLOYEE NUMBER

The following manual has been prepared for your information and guidance. These basic rules of conduct for all Custody Division employees require strict adherence at all times; violations may be grounds for dismissal, criminal prosecution, or disciplinary action.

I acknowledge that I have received a copy of Central Jail's Training Manual and that I have read Chapter 3 of the Custody Division Manual of Policy and Procedures and the foregoing excerpts of the Sheriff's Department Manual of Policy and Procedures and sections of the California Penal Code. I fully understand and accept the information contained therein.

[signature] 5/17/92

Signature of Employee | Date

SLOAN, GARY P [redacted]

PRINT LAST NAME, FIRST NAME, M.I. | EMPLOYEE NUMBER

EXHIBIT Y

RECURRENT BRIEFING

JULY/1995

USE OF FORCE

WHEN FORCE MAY BE USED

The Manual of Policy and Procedures (Section 3-01/030.20, 3-01/030.21, 3-01/020.23 and 5-09/430.00) define force as any physical effort used to control, restrain or overcome the resistance of another. As a law enforcement agency the Department has been entrusted with the authority to use force to accomplish our mission. Members are not to be restricted in the lawful performance of their duties and have a positive responsibility to use reasonable force when necessary. In all situations, any force employed by Department members must be necessary and reasonable.

Necessary force: Members shall use force only when the necessity exists, and when fully justified by the circumstances.

Reasonable force: Members shall use only that degree of force which is objectively reasonable to protect themselves or others, or to overcome resistance to their lawful authority.

Members shall employ appropriate defensive and control techniques, including the use of Department approved equipment and devices. Intentional head strikes with any impact weapon are specifically prohibited unless circumstances justify the use of deadly force. In considering the use of deadly force, department members shall be guided by reverence for human life.

Unit Commanders shall thoroughly familiarize their personnel with Department policy relating to the use of force, reporting the use of force, and to the treatment of persons and prisoners.

Any use of force that is unnecessary or unreasonable will subject the member to discipline, and may result in criminal prosecution.

UNNECESSARY FORCE

Unnecessary force is any use of force by Department members that is without sufficient cause, i.e. when the necessity to use force is not fully justified by the circumstances.

UNREASONABLE FORCE

Unreasonable force is any use of force by Department members when the necessity exists, but which exceeds the degree of force that is objectively reasonable to protect themselves or others, or to overcome resistance to their lawful authority. The use of force against a person who has been subdued, restrained or otherwise incapacitated, and who clearly no longer represents an immediate threat to Department personnel or to others, is unreasonable force.

REPORTING THE USE OF FORCE

In all cases where members use force (as defined in Subsection 3-01/030.20), the following procedures shall be strictly adhered to:

Members shall immediately make a verbal report to their immediate supervisor (minimum rank of sergeant) in all cases in which they use reportable force. Members witnessing reportable force shall immediately advise their supervisor, who will determine whether a separate report by the witness(es) is required.

Whenever the incident requires a first report, all details regarding the use of force shall be included in that report. A reference to the verbal notification and the name of the supervisor to whom it was made shall be included in the first report. Each assisting member who used force, including partners, shall submit a separate supplemental report detailing his actions.

Each member reporting force in a report or memorandum shall describe in detail the actions of the suspect necessitating the use of force and the specific force used in response to the suspect's actions. Any injuries or complaint of injuries, and any medical treatment or refusal of medical treatment, shall be documented in the first report, supplementary reports, or memoranda.

TRANSPORTING SUSPECTS

Whenever a suspect on whom force was used is transported to a medical facility for examination or treatment prior to booking or housing in a custody facility, the transporting deputy shall immediately advise his field sergeant or immediate supervisor. The sergeant shall immediately advise the watch commander or supervising lieutenant that the suspect is being treated or examined following a deputy's use of force.

When a suspect is transported from the field to LCMC, IRC, SBI for booking the watch commander or supervising lieutenant shall arrange to interview the prisoner at the booking site, according to the procedures outlined in the sub-section entitled "Watch Commander's Responsibilities".

MEDICAL TREATMENT

A suspect must be transported to a medical facility for examination/treatment by qualified medical personnel whenever:

- He strikes his head on a hard object, or sustains a blow to the head as a result of the application of force by a deputy. The transporting deputy shall inform the doctor that the prisoner has been struck in the head or struck his head.

- He is restrained with a carotid restraint or any kind of neck/throat restraint, whether or not he is rendered unconscious. The deputy transporting the shall inform the medical staff of the fact that the suspect was restrained with a carotid restraint and whether or not he was rendered unconscious.

- He is hit with a specialized weapon projectile (ARWEN round, TAZER dart etc.) or is sprayed with Oleoresin Capsicum spray.

- He has injuries that appear to require medical treatment.

- He alleges any injury and requests medical treatment, whether or not he has any apparent injuries.

- He alleges that substantial force was used against him, whether or not he has no apparent injuries or requests medical treatment.

NOTE: Any doubt regarding the need for medical treatment shall be resolved by transporting the suspect to an appropriate medical facility.

If the suspect refuses medical treatment in any of the cases previously described, he shall be transported to a medical facility and required to personally inform the medical staff of his refusal to receive medical treatment. The transporting deputy shall include in the appropriate report or memorandum the name of the medical personnel to whom the suspect indicated his refusal and the name of the medical staff member authorizing booking at the station or regular jail housing. In addition, an effort should be made to have the medical staff complete an admission report on the suspect and to indicate the suspect's refusal of medical treatment on that report.

If the medical staff indicates that the suspect should be treated despite his refusal, the suspect shall be transported to LCMC Jail Ward or to the appropriate Custody Division medical facility for treatment or medical review.

Prepared by:

Custody Division
Headquarters Training Unit

SUBJECT: USE OF FORCE REPORTING AND REVIEW PROCEDURES

This Manual revision modifies the procedures concerning force reporting, review, and documentation, and establishes additional procedures for deputy-involved shooting, force, and other high risk incident review. This revision supersedes Field Operations Directive 92-3.

Concerned personnel shall be briefed on the contents of this manual revision.

The following should be deleted in their entirety:

Subsection 3-01/030.25
Section 5-09/430.00
Subsection 5-09/430.05
Subsection 5-09/430.10
Subsection 5-09/430.15
Subsection 5-09/430.20
Subsection 5-09/430.25
Subsection 5-09/430.30
Subsection 5-09/430.35
Subsection 5-09/430.40

Add Section 5-09/430.00 USE OF FORCE REPORTING AND REVIEW PROCEDURES, Section 5-09/431.00 DEPUTY-INVOLVED SHOOTINGS, Section 5-09/432.00 DEPUTY-INVOLVED SHOOTINGS - PERSON HIT, Subsection 5-09/432.05 Supervisor's Responsibilities, Subsection 5-09/432.10 Unit Responsibility – Deputy Shot, Subsection 5-09/432.15 Homicide Bureau's Responsibilities, Subsection 5-09/432.20 Professional Standards and Training Division Responsibility, Subsection 5-09/432.25 Deputy's Unit Commander and Area Commander, Subsection 5-09/432.30 Department Psychologist, Subsection 5-09/432.35 Communications and Rumor Control, Subsection 5-09/432.40 Statistical Compilation – Shots Fired By Or At Deputies – No Person Wounded or Killed, Section 5-09/433.00 DEPUTY-INVOLVED SHOOTINGS - NO ONE HIT, Section 5-09/434.00 PROFESSIONAL STANDARDS AND TRAINING DIVISION RESPONSE TEAMS, Subsection 5-09/434.05 Activation of PSTD Response Teams, and Subsection 5-09/434.10 Executive Review of PSTD Response Team Reports to read as follows:

5-09/430.00 USE OF FORCE REPORTING AND REVIEW PROCEDURES

Any use of force which is greater than that required for unresisted Department-approved searching or handcuffing must be reported. Additionally, any use of force which results in an injury or a complaint of pain must be reported.

Responsibilities for Reporting the Use of Force

Members shall immediately make a verbal notification to their immediate supervisor (in this section, "supervisor" refers to a minimum rank of sergeant) in all cases in which they use reportable force. Members witnessing reportable force shall immediately advise their supervisor, who will determine whether a separate report by the witness(es) is required.

Whenever an incident involving reportable force requires a first report, all details regarding the use of force shall be included in that report. A reference to the verbal notification and the name of the supervisor to whom it was made shall be included in the first report. Each assisting member who used force, including partners, shall submit a separate supplementary report detailing his actions.

Each member reporting force in a report or memorandum shall describe in detail the actions of the suspect necessitating the use of force and the specific force used in response to the suspect's actions. Any injuries or complaint of injuries, and any medical treatment or refusal of medical treatment, shall be documented in the first report, supplementary reports, or memoranda.

Transporting Suspects

Whenever a suspect on whom force was used is transported to a medical facility for examination or treatment prior to booking or housing in a custody facility, the transporting deputy shall immediately advise the field sergeant or immediate supervisor. The sergeant shall immediately advise the watch commander or supervising lieutenant that the suspect is being treated or examined following a deputy's use of force.

When a suspect must be transported from the field directly to L.A. County-USC Medical Center, IRC, or SBI for booking, the watch commander or supervising lieutenant shall arrange to conduct the prisoner interview at the booking site, according to the procedures outlined in the sub-section entitled "Watch Commander's Responsibilities."

Medical Treatment

A suspect must be transported to a medical facility for examination/treatment by qualified medical personnel whenever:

- He strikes his head on a hard object, or sustains a blow to the head, as a result of the application of force by a deputy, regardless of how minor any injury to the head may appear. The deputy transporting the suspect shall inform the doctor that the suspect was struck on the head or struck his head.
- He is restrained with a carotid restraint, or any kind of neck/throat restraint, whether or not he is rendered unconscious. The deputy transporting the suspect shall inform the medical staff of the fact that the suspect was restrained with a carotid restraint and whether or not he was rendered unconscious.
- He is hit with a specialized weapon projectile (such as an Arwen round, Taser dart, etc.) or is sprayed with Oleoresin Capsicum spray.
- He has injuries that appear to require medical treatment.
- He alleges any injury and requests medical treatment, whether or not he has any apparent injuries.
- He alleges that substantial force was used against him, whether or not he has any apparent injuries or requests medical treatment.

Note: Any doubt regarding the need for medical treatment shall be resolved by transporting the suspect to an appropriate medical facility.

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If the suspect refuses medical treatment in any of the cases previously described, he shall be transported to a medical facility and required to personally inform the medical staff of his refusal to receive medical treatment. The deputy transporting the suspect shall include in the appropriate report or memorandum the name of the medical personnel to whom the suspect indicated his refusal and the name of the medical staff member authorizing booking at the station or regular jail housing. In addition, an effort should be made to have the medical staff complete an admission report on the suspect and to indicate the suspect's refusal of medical treatment on that report.

If the medical staff indicates that the suspect should be treated despite his refusal, the suspect shall be transported to the L.A. County-USC Medical Center Jail Ward or to the appropriate Custody Division medical facility for treatment or medical review.

Immediate Supervisor's Responsibilities

The field sergeant or immediate supervisor shall respond without unnecessary delay to any incident involving reportable force.

When the reportable force is significant; that is, involves any of the following:

- Suspect injury resulting from use of force
- Complaint of pain or injury resulting from use of force
- Indication or allegation of misconduct in the application of force
- Any application of force that is greater than a department-approved control hold or come-along

the field sergeant or immediate supervisor shall:

- Immediately advise the watch commander or supervising lieutenant.
- Locate and interview all potential witnesses, including department personnel, and document their statements, including those who could have witnessed but claim not to have witnessed the incident.
- Photograph the scene in conditions as near as possible to those at the time of the force incident, if appropriate.
- Complete a "Supervisor's Report, Use of Force" (SH-R-438) for each member who used force.
- Interview the attending physician or other qualified medical personnel, when the suspect is taken to a medical facility for examination, as to the extent and nature of the suspect's injuries, or lack thereof, and whether the injuries are consistent with the degree of force reported.

Note 2: If the force used falls into one of the categories requiring a Professional Standards and Training Division Response Team (see next subsection), the sergeant's or immediate supervisor's function shall be limited to notifying the watch commander, identifying and interviewing witnesses, and preserving the scene and evidence as appropriate.

When the reportable force involves the following:

- Searching and handcuffing techniques resisted by the suspect
- Department-approved control holds or come-alongs
- Use of the "RIPP" hobble restraint

which result in no injury or complaint of pain or any indication of misconduct, the field sergeant or immediate supervisor shall:

- Advise the watch commander or supervising lieutenant as soon as possible.
- Interview the person/prisoner if practical.
- Complete a "Supervisor's Report, Use of Force" (SH-R-438) for each member who used force and include a narrative briefly documenting the circumstances and synopsizing any statements acquired.
- Ensure distribution of the SH-R-438 as indicated on the form.

Watch Commander/Supervising Lieutenant's Responsibilities

The watch commander or supervising lieutenant shall, with extreme priority, personally examine any suspect/inmate on whom significant force has been used and interview him regarding the incident. When interviewing suspects/inmates regarding use of force incidents, the watch commander shall ask the person if he has any injuries, the nature of the injuries, and if he wants medical treatment. These questions must be asked whether or not the suspect/inmate has any apparent injuries. (Refer to the section entitled "Medical Treatment" for required treatment.) If the suspect is taken to a medical facility for examination, the watch commander shall ensure that a supervisor interviews the examining physician or qualified medical personnel as to the extent of the injuries, or lack thereof, and whether the injuries are consistent with the degree of force reported.

The watch commander/supervising lieutenant shall tape-record the interview of the suspect/inmate and photograph him, paying particular attention to any known or alleged areas of injury. (Obtain suspect consent for photographing injuries hidden by clothing.) The watch commander/supervising lieutenant should also consider video-taping the interview when appropriate.

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The watch commander/supervising lieutenant shall submit a force review package (see subsection entitled "Force Review Package") to the unit commander as soon as possible detailing the results of his review and his recommendation as to whether further action or investigation is warranted.

Requesting a PSTD Response Team

The watch commander/supervising lieutenant is responsible for immediately notifying the on-call Internal Affairs Bureau lieutenant in any of the following situations involving force or allegations thereof:

- Hospitalizations due to injuries caused or allegedly caused by any Department member.
- Skeletal fractures caused or allegedly caused by any Department member.
- Force used by any Department member during or following a vehicular or foot pursuit.
- Injury or complaint of injury to a person's head, resulting in hospital treatment, following contact with any Department member, or resulting from strikes with impact weapons.
- Canine bites resulting in hospital treatment.
- Any death following a contact with any Department member.

The Internal Affairs Bureau lieutenant shall determine whether the response of a Professional Standards and Training Division Response Team is appropriate. If a response team is to be sent, the Internal Affairs Bureau lieutenant shall direct the watch commander/supervising lieutenant as to whether to conduct a suspect/inmate interview.

The watch commander/supervising lieutenant shall immediately notify the unit commander of any incident requiring a Professional Standards and Training Division response. (See section entitled "Professional Standards and Training Response Team Responsibilities.")

In any situation in which a Response Team responds to conduct a force review, the watch commander/supervising lieutenant shall cooperate with and assist team personnel in conducting the review. The watch commander/supervising lieutenant shall not conduct a suspect/inmate interview unless directed to do so by the Internal Affairs Bureau lieutenant, and shall not submit a unit level force review package on any force incident which is documented by PSTD team personnel who have responded to the scene.

Watch Sergeant/Line Sergeant's Responsibilities

Sergeants approving reports shall ensure that all pertinent information is contained in the report. Particular attention should be given to the description of the use of force and the suspect's actions compelling the use of force.

After approving reports involving the use of force, the sergeant shall ensure that a photocopy of the approved report is forwarded immediately to the concerned watch commander for inclusion in the force review package.

Force Review Package

The watch commander/supervising lieutenant shall prepare and submit a force review package to the unit commander for all reviews of significant force not conducted by a PSTD response team. The force review package shall include the following items:

- Watch commander's memorandum to the unit commander detailing the findings of the use of force review, including an explanation of the incident, witness/suspect statements, and qualified medical personnel's statement.
- Supervisor's Reports, Use of Force.
- Copy of SH-R 49 and related supplemental reports.
- Copy of in-service rosters for the concerned shift(s).
- Copy of medical reports.
- Photographs or video-tape of suspect's injuries or areas of alleged injury (copies of booking photographs may also provide excellent documentation).
- Tape-recording or video-tape of Watch Commander's interview of suspect, inmate and/or witnesses.
- Any related material which is deemed significant or serves to further document the incident, such as dispatch or complaint telephone tapes.

The force review package shall be forwarded to the unit commander for approval. Force review package material is to be retained at the unit level for two years or until requested by the Civil Litigation Unit. It will be then be processed as outlined in Section 5-04/010.01.

Unit Commander's Responsibilities

The unit commander shall evaluate all force review packages and the watch commander/supervising lieutenant's findings concerning the use of force. The unit commander will determine if further action or investigation is necessary. If further investigation is warranted, he may either initiate a unit level administrative investigation or request an investigation by the Internal Affairs or Internal Criminal Investigations Bureaus. The unit commander shall ensure that the member(s) who used force are notified as soon as possible in any case requiring further investigation.

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In all use of force incidents in which a suspect or prisoner is transported to a hospital for medical treatment, the unit commander shall forward copies of the following documents to both the division chief and the Internal Affairs Bureau within three business days.

- The watch commander/supervising lieutenant's detailed memo
- The "Supervisor's Reports, Use of Force"
- All related SH-R 49 reports

The unit commander is also responsible for ensuring the additional distribution of the Supervisor's Reports, Use of Force as follows:

- Original to PST Division Headquarters
- Copy with Force Review Package
- Copy to employee

Division Chief's Responsibilities

The division chief shall, within three business days of receipt, review all use of force incidents in which a suspect or prisoner is transported to a medical facility for treatment. The division chief shall note his concurrence with the unit level force review on the documents and return them to the unit for retention in the unit file. In the event that the division chief does not concur, he may specify to the unit commander the additional steps necessary to complete the package or notify the Chief of Professional Standards and Training Division and request an administrative investigation by Internal Affairs Bureau.

Internal Affairs Bureau Responsibilities

Internal Affairs Bureau personnel shall, within three business days of receipt, review all unit level force review package documents forwarded by the unit commander. The purpose of the IAB review is to ensure that a disinterested, experienced investigator examines the incident in terms of policy adherence, potential liability and completeness of documentation. The reviewing IAB investigator shall notify the IAB Captain of any incident in which he feels further documentation or investigation is appropriate. The IAB Captain will in turn notify the Chief of the Professional Standards and Training Division and the concerned unit commander. The Chief of the PSTD will notify the concerned division chief of any IAB request for further documentation or investigation.

5-09/431.00 DEPUTY-INVOLVED SHOOTINGS

Immediate action shall be taken to care for the injured, to apprehend suspects, and to protect the scene. Assisting personnel should attempt to locate and identify any witnesses to the incident. Deputies shall refrain from discussing the incident until the arrival of the first supervisor. The involved personnel should briefly inform the supervisor of the circumstances surrounding the incident and what action has been taken.

The involved deputies shall then be immediately transported, by uninvolved deputies, to the station, unit of assignment, or other suitable location. Involved personnal shall refrain from discussing the incident with anyone else until after being interviewed by the Homicide Bureau investigators, or in shootings where no one has been wounded or killed, until each has written a detailed report articulating the circumstances leading to the encounter, the hazards/threats faced by deputies or others and the reasons that the decision to use deadly force was made.

The watch commander or supervising lieutenant is responsible for immediately notifying Homicide Bureau following any incident in which shots fired by a deputy at another person cause injury or death, and in any incident in which a deputy is shot. The watch commander or supervising lieutenant is also responsible for immediately notifying the IAB on-call lieutenant following any deputy-involved shooting, including those in which no one is hit or injured, as well as after accidental discharges and the shooting of animals. (See section entitled, "Professional Standards and Training Division Response Teams.") The watch commander shall immediately notify the unit commander anytime the PSTD Response Team is activated. The unit commander shall respond anytime a deputy shoots at a person, as well as anytime a deputy is shot. If the location of the shooting is outside Los Angeles County, the unit commander shall evaluate the incident and determine whether an immediate response is in order.

Except under exigent circumstances, a deputy-involved shooting scene shall be kept intact and protected until the conclusion of Homicide Bureau's investigation and/or the PSTD Response Team review. Expended brass, cartridges, magazines, etc., shall be left undisturbed. Fired weapons should be holstered or secured, consistent with standard evidence retrieval and preservation methods. Once secured, weapons shall not be handled or examined, except by Homicide Bureau investigators or by PSTD Response Team personnel.

Note: Should a weapon be discarded during an incident, it shall be left undisturbed if at all possible.

In any situation in which a Professional Standards and Training Division Response Team responds and conducts a shooting review, the watch commander/supervising lieutenant shall cooperate

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with and assist team personnel in conducting the review; however, unit level personnel will not produce a shots fired or incident review. The watch commander/supervising lieutenant shall be responsible for securing the incident scene and identifying and sequestering witnesses as appropriate. In deputy-involved shooting incidents, witness interviews shall be conducted by Homicide investigators or, when no hit has occurred, by PSTD Response Team members. Response Team members may request unit-level supervisors to assist with witness interviews in "non-hit" shooting incidents.

5-09/432.00 DEPUTY-INVOLVED SHOOTINGS - PERSON HIT

In any deputy-involved shooting in which a person is hit, the following responsibilities will be carried out by the people/units designated.

5-09/432.05 Supervisor's Responsibilities

The first supervisor to arrive at the scene shall ensure that the injured have been cared for, suspects have been apprehended, and the scene has been protected. After obtaining a brief description of the circumstances from them, the supervisor shall ensure that involved personnel are transported to the station, unit of assignment, or other suitable location without delay by uninvolved deputies.

The first supervisor at the scene shall ensure that all civilian witnesses have been identified and shall attempt to have the witnesses, except for immediate family members, transported to the station to be interviewed by Homicide investigators. Immediate family members of the wounded or deceased person, who may be witnesses, shall also be identified. If possible, considering the emotional impact of the situation, brief facts should be obtained to determine the extent of their knowledge of the incident. This information shall be furnished to Homicide Bureau investigators, who have the responsibility of determining the need for interviewing family members.

Supervisors, both at the scene and at the station, shall ensure that no one questions or interviews involved personnel, except as set forth above, until the arrival of Homicide investigators, and that the witnesses are cared for and kept separated as space permits.

NOTE: ALTHOUGH DEPUTIES INVOLVED IN THE SHOOTING MUST BE SEQUESTERED, THOSE WHO HAVE WOUNDED OR KILLED SOMEONE SHALL HAVE A DEPARTMENT MEMBER REMAIN WITH THEM UNTIL HOMICIDE BUREAU CAN CONDUCT INTERVIEWS.

The watch commander shall assign a Department member to provide aid and assistance as needed. That person shall avoid discussion of the facts of the incident with personnel involved in the shooting. Numerous interviews of personnel involved in shootings prior to the arrival of Homicide Bureau personnel can negatively affect the ability of some to relate facts accurately to Homicide investigators.

Deputies who have sustained minor injuries, not requiring hospitalization, should remain in their current attire and postpone cleaning up until they have been photographed.

5-09/432.10 Unit Responsibility -- Deputy Shot

A sergeant or lieutenant from the injured deputy's unit shall respond to the hospital to act in a liaison role between medical personnel and Department personnel. This supervisor is responsible for organizing the information flow between the hospital and the Department, arranging security details (if appropriate), maintaining order, and communicating with Health and Safety.

5-09/432.15 Homicide Bureau's Responsibilities

Homicide Bureau is responsible for conducting a thorough investigation into the incident. They are responsible for conducting the investigation of the scene and interviewing all concerned persons. Homicide Bureau investigators shall respond to the scene to conduct their investigation and then to the station/unit to interview the involved deputies and other witnesses.

The investigation conducted by the Homicide Bureau investigators shall be submitted to the District Attorney's Special Investigations Division for their consideration.

5-09/432.20 Professional Standards and Training Division Responsibility

The Professional Standards and Training Division response teams are responsible for conducting administrative reviews of shootings. In shooting situations where a person has been wounded or killed, team personnel shall cooperate with Homicide personnel and vice versa to gather the facts necessary for their review (see Section 5-09/534.00).

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5-09/432.25 Deputy's Unit Commander

The Homicide Bureau lieutenant shall interview the involved deputies without delay. He shall fully inform the Unit Commander, as well as the PSTD response team, of the results of his preliminary interview, and shall keep them fully informed of the significant developments of the investigation as they occur.

5-09/432.30 Department Psychologist

Often following a shooting incident, personnel who have fatally shot or wounded someone experience severe emotional impact. The impact varies with each individual and is completely unpredictable. In some cases, it may occur immediately, while in others, several hours or days may pass before symptoms are experienced.

In all shootings involving death or serious injury, a deputy who fired a weapon, or was fired upon, shall be temporarily reassigned to an interior post position for a minimum of five calendar days.

The concerned unit commander is responsible for arranging a meeting following the incident between the Department psychologist and any deputy who has been involved in a shooting where an injury or death has occurred. This meeting shall take place within five days of the shooting incident. This provides each deputy with the opportunity to discuss the incident in a completely confidential environment. Deputies shall be required to attend this first session. Any subsequent counseling is completely voluntary.

The Department psychologist will only confirm that the first appointment was kept, but will not provide any information about subsequent visits unless the deputy authorizes such disclosure.

There are times when entire units are adversely impacted by one or a series of shootings. A Department psychologist will respond and conduct group debriefings if requested. When warranted, a Department psychologist may be requested to respond to the scene.

5-09/432.35 Communications and Rumor Control

The Homicide Bureau lieutenant is responsible for updating the concerned Unit Commander concerning significant developments of any Homicide Bureau investigation. He is also responsible for providing information to the Sheriff's Information Bureau to allow timely notification of the media.

The concerned commander, once he has been briefed by the Homicide lieutenant, is responsible for the timely notification of his division chief and assistant sheriff, the Undersheriff, and the Sheriff or his executive assistant.

The Homicide Bureau is responsible for preparing a comprehensive memo concerning the facts of the incident. This memo shall be directed to the Sheriff from the chief of the Detective Division. Distribution will be made to major Department executives, PSTD Headquarters, the IAB unit commander, and the concerned divisions. This memo shall be available at the beginning of the next business day following the shooting. The information shall be simultaneously furnished to the Sheriff's Information Bureau, which is responsible for preparing Department messages to all units for rumor control.

5-09/432.40 Statistical Compilation -- Shots Fired By Or At Deputies -- No Person Wounded or Killed

The Internal Affairs Bureau is responsible for the total compilation of all shots fired data. All division headquarters are required to forward a monthly report (SH-AD-630) to IAB by the 10th of each month, for statistical purposes. Internal Affairs Bureau shall then forward a composite report to the major executives of the Department.

5-09/433.00 DEPUTY-INVOLVED SHOOTINGS - NO ONE HIT

In situations in which deputy personnel fire at another person and miss, the procedures previously outlined for scene preservation shall be adhered to. Involved deputies shall be ordered into the station, unit of assignment or other suitable location to complete a detailed report of the shooting. The report must make clear the circumstances leading to the encounter, the hazards/threats faced by deputies or others and the reasons that the decision to use deadly force was made. After obtaining a brief description of the circumstances from involved

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personnel, supervisors, both at the scene and at the station, shall ensure that no one questions or interviews them until this report is completed.

Professional Standards and Training Division Response Teams shall conduct an administrative review of all situations in which deputy personnel fire at another person and miss, as outlined in the next section.

In situations involving accidental discharges or the shooting of animals, involved personnel and supervisors shall proceed according to the direction of the on-call IAB lieutenant upon notification.

5-09/434.00 PROFESSIONAL STANDARDS AND TRAINING DIVISION RESPONSE TEAMS

To enhance the Department's quality assurance and control, and ensure Department-wide consistency in our review process, PSTD Response Teams shall respond to and investigate certain force and high-risk incidents and prepare reports that include, but not be limited to, the following: multi-perspective reviews of the incident; reviews of adherence to policy and performance standards; reviews of adherence to Department training; recommendations for changes in policy and training; assessments of the civil liability the Department is exposed to by our operations and procedures; and reviews of other pertinent issues.

The PSTD Response Teams consist of representatives from various Department units, such as Internal Affairs Bureau, Training Bureau, Civil Litigation, Traffic Services, Medical Services Risk Management, Custody Training, etc., depending on the type of incident and the expertise required.

5-09/434.05 Activation of PSTD Response Teams

Watch commanders and supervising lieutenants are required to make immediate notification to the on-call IAB lieutenant whenever any of the following occur:

- All shootings by any Department member, both on-duty and off-duty, including accidental discharges and the destruction of animals.
- All incidents in which deputy personnel are shot.
- Hospitalizations due to injuries caused or allegedly caused by any Department member.
- Skeletal fractures caused or allegedly caused by any Department member.
- Force used by any Department member during or following a vehicular or foot pursuit.
- Injury or complaint of injury to a person's head, resulting in hospital treatment, following contact with any Department member, or resulting from strikes with impact weapons.
- Canine bites resulting in hospital treatment.
- Any death following a contact with any Department member.
- Injury or high value property damage (including collateral damage) occurring as a result of vehicular pursuits.
- Traffic collisions involving Department vehicles resulting in the hospitalization of any party or high property damage.
- Inmate deaths from other than obvious natural causes. This would include murders, suicides, overdoses, etc.

The on-call IAB lieutenant shall evaluate the information and determine if a response team activation is appropriate. The on-call lieutenant shall also determine the appropriate makeup of each team and will cause the notification of those personnel. The following types of incidents shall require mandatory activation of a PSTD response team by the on-call IAB lieutenant consisting of, but not limited to, an IAB lieutenant, an IAB Roll-out Team, and a representative from the Training Bureau or Custody Training:

- All shootings in which a shot was intentionally fired at a person by a Department member.
- Force resulting in admittance to a hospital.
- Any death following an altercation with any Department member.

The members of the Response Teams will prepare thorough, fully informative analysis reports with summaries specific to their area of expertise. All reports shall be prepared within thirty (30) business days of an incident and forwarded to the designated PSTD Commander, who is responsible for ensuring timely submission of the reports. A copy of all reports will be sent to the concerned Unit Commander for his information. The PSTD Commander is responsible for establishing an Incident File containing the Response Team's full reports, and for ensuring that they are entered into the Personnel Performance Index. Copies of the individual report summaries shall be assembled into a Response Team Incident Summary.

If at any time the Response Team IAB lieutenant determines that an administrative investigation is warranted, he shall brief the concerned unit commander, and with the concurrence of the concerned division chief, he shall direct the IAB investigators to commence an investigation. If it is determined that the conduct of any Department member may have been criminal in nature, the PSTD Response Team lieutenant shall immediately notify the concerned unit commander, and with

(Continued on next page)

concurrence of the concerned division chief, turn the investigation over to the Internal Criminal Investigations Bureau.

5-09/434.10 Executive Review of PSTD Response Team Reports

Each Response Team Incident Summary will be evaluated by a Department Review Committee chaired by a PSTD commander and also comprised of two additional commanders selected by the PSTD Chief.

Each of the three commanders will receive a copy of the PSTD Response Team Incident Summary, and each is responsible for reading it and being prepared to discuss the facts and reach conclusions. The Department Review Committee will then meet and evaluate the PSTD Response Incident Summary to determine if there were aspects that exposed the Department to undue risk, violations of law or policy, actions taken by personnel in conflict with current training, equipment improperly deployed or utilized, mentally and/or physically impaired or incapacitated personnel involved, etc. The Response Team's complete reports, as well as the Homicide Bureau's investigation (if applicable), shall be made available to the Review Committee when required. Also, if necessary, the various authors of the reports shall be available to discuss and/or clarify issues.

Upon initial evaluation of the Incident Summary, the Department Review Committee may recommend additional inquiry by the IAB investigators when there are issues or discrepancies that remain unresolved, or may request a formal administrative investigation if there appear to be policy violations. In these cases, the PSTD Commander shall direct such additional work to be completed and returned to him so that the Review Committee can complete its evaluation. A supplemental IAB investigative summary will be included in the overall Incident Summary.

The PSTD Commander is responsible for preparing a "Findings and Recommendations" report based on the Department Review Committee's conclusions, which will be included with the Response Team Incident Summary. The Findings and Recommendations report must be specific. If an administrative investigation was conducted, the Findings and Recommendations shall cite laws and/or manual sections that were violated. In all incidents, the Findings and Recommendations shall address whether current tactical practices were adhered to, and shall make suggestions for training and policy revisions, when appropriate. Likewise, exemplary performance should be cited and an appropriate commendation recommended.

The Response Team Incident Summary and the Department Review Committee's Findings and Recommendations shall be forwarded to the concerned unit commander via division headquarters. The unit commander has thirty (30) business days to complete his evaluation of the material and make written recommendations, which shall then be attached to the Incident Summary and forwarded to the concerned division chief. If the committee's recommendations call for discipline, the unit commander shall decide on the level of discipline and shall write a case disposition sheet. The concerned division chief, upon approving the unit commander's recommendations, shall forward the completed Incident Summary to the chief of PSTD.

If the unit commander's recommendations regarding policy violations are in disagreement with the Findings and Recommendations of the Department Review Committee, he must justify his dissent in his recommendations memorandum to the division chief. The unit commander's recommendation may overrule the Department Review Committee if the division chief approves and has the concurrence of the appropriate Assistant Sheriff.

It shall be the responsibility of the concerned unit commander to ensure adherence to the Department Review Committee recommendations. Actions taken must be appropriately documented by the unit commander and forwarded to the PSTD Area II Commander for inclusion in the Incident Summary.

The completed Incident Summary must include the summaries of the various members of the Response Team, the Findings and Recommendations of the Department Review Committee, unit commander's recommendations, documentation of any dissent with accompanying justification, and the final actions taken. This documents the review process, decisions made, and actions taken regarding any incident wherein a response team is activated. The Incident Summary shall be retained at PSTD Headquarters and entered into the Personnel Performance Index.

Revise the ninth paragraph in Subsection 3-09/070.10 Supervisor's Report and Responsibilities to read as follows:

In the event that the collision/incident involves death, serious injury to any of the involved parties, any unusual accident which could result in high loss litigation, or at the discretion of the Unit Commander, the supervisor shall immediately notify the on-call Internal Affairs Bureau Lieutenant, who shall notify Traffic Services Detail. If during other than normal business hours, the Sheriff's Information Bureau shall be notified. Traffic Services Detail shall respond to and assist with the investigation.
(Continued on next page)

Revise the third and fifth paragraphs in Section 5-05/010.00 TRAFFIC COLLISION RESPONSE TEAM to read as follows:

The Watch Commander shall immediately notify the on-call Internal Affairs Bureau Lieutenant, who shall determine if a Response Team shall be activated, and the station traffic supervisor whenever the following circumstances exist:

- A Department vehicle...(no further changes)

The Response Team is also available to assist Units, upon request, with the investigation of other serious injury or fatal traffic collisions. The Watch Commander or traffic supervisor may request the Response Team directly whenever:

- Collision reconstruction...(no further changes)

Revise the third dashed item under Hit and Run (Felony or Misdemeanor) in Section 4-04.015.00 ACCIDENTS, TRAFFIC--IN CONTRACT CITY to read as follows:

CLASSIFICATION (Crime or Incident)	FORM # FILE # PRIORITY (RET.)	ASSIGN. AND ACTION	ADDITIONAL INFORMATION AND STATISTICAL CODES
– Employee of Sheriff's Department	CHP-555 URN 47 (4)	Station Patrol Traffic A	If employee on duty when injured, also prepare Form SH-AD-92, 76V54A, and SH-R-257. * If a fatal or serious injury accident and the employee is on duty, immediately notify the Internal Affairs Bureau Lieutenant for possible response by Traffic Collision Response Team. If employee...(no further changes)

(Continued on next page)

Revise the third and fourth paragraphs in Section 4-04/020.00 ACCIDENTS, TRAFFIC--IN OTHER AREAS to read as follows:

CLASSIFICATION (Crime or Incident)	FORM # FILE # PRIORITY (RET.)	ASSIGN. AND ACTION	ADDITIONAL INFORMATION AND STATISTICAL CODES
In unincorporated area			CHP shall handle all traffic accidents in these areas, including accidents on freeways in Contract Cities and those involving Sheriff's Department vehicles. If a fatal or serious injury accident, immediately notify the on-call Internal Affairs Bureau Lieutenant for possible response by Traffic Collision Response Team. A Sheriff's unit...(no further changes)
Sheriff's Department vehicle involved in fatal accident in unincorporated area	76V54A SH-R-257 SH-R-49 URN 47 (0)	Homicide Bureau A	CHP will handle normal accident reporting. Notify Homicide Bureau immediately in all cases wherein fatality has occured or is imminent. The required first report shall be a narrative explanation of the accident. Also, see "Property Damage." Immediately notify the on-call Internal Affairs Bureau Lieutenant for possible response by Traffic Accident Response Team. Code 470 - Accident, Traffic - Fatal. Follow procedures outlined in Volume 3, Chapter 9.

(Continued on next page)

Revise the ninth paragraph under Section 4-19/062.00 PROPERTY DAMAGE - ACCIDENTAL–TRAFFIC ACCIDENT CONNECTED to read as follows:

CLASSIFICATION (Crime or Incident)	FORM # FILE # PRIORITY (RET.)	ASSIGN. AND ACTION	ADDITIONAL INFORMATION AND STATISTICAL CODES
Sheriff's Department vehicles	76V54A SH-R-257 URN	Unit of assignment	See Volume 3, Chapter 9, and Volume 5, Chapter 5.
	50 (1)	A	Stations and Bureaus shall be responsible for the investigation of all on-duty traffic collisions involving their personnel. This shall include Department vehicles and all vehicles of permittees when operating during official business. Watch Commander/Operations Lieutenant shall be responsible for notifying the Carl Warren and Company, as soon as possible by phone (213) 594-9303 (24 hours), and relaying the information found in the 76V54A when there is an injury, complaint of an injury, a death, or major private property damage. The telephonic notification shall be confirmed by written report by completing the 76V54A and distributing it as per instructions on the back. If possible, the above claim service copies of the 76V54A are to be sent within 24 hours of the incident. When 76V54A is the only report submitted, it must contain a complete narrative of the incident (use additional pages when necessary), and may include a word picture, measurements, and statements of witnesses and parties. If employee is injured, see "Person Injured/Ill." Traffic Collision Report (CHP-555) is necessary only if collision occurred in a Contract City. Immediately notify the on-call Internal Affairs Bureau Lieutenant on all traffic collisions involving an on-duty employee resulting in ANY bodily injury (including complaint of pain) for possible response by the Traffic Collision Response Team. * SH-R-49 is necessary...(no further changes) (Continued on next page)

Revise the first, second, and third paragraphs under Section **4-22/027.00 SHOTS FIRED AT DEPUTY ON OR OFF DUTY** to read as follows:

CLASSIFICATION (Crime or Incident)	FORM # FILE # PRIORITY (RET.)	ASSIGN. AND ACTION	ADDITIONAL INFORMATION AND STATISTICAL CODES
Deputy injured as result of gunshot -- crime involved	SH-R-49 SH-CR-563 SH-AD-92 URN (0)	Homicide Bureau and Unit of assignment for crime involved; Health and Safety Unit	Make immediate notification to Homicide Bureau, the on-call Internal Affairs Bureau Lieutenant, the Deputy's Unit Commander, the Area Commander or Duty Officer, Health and Safety Unit, and the Sheriff's Information Bureau. Complete a brief first report. Supplemental Report to include all witnesses, resume of incident, responsible party, and full details. Transport witnesses, suspects, and involved Deputy(s) to the Station, without delay, for exclusive interview by Homicide Bureau. See Volume 5, Chapter 9, for further information. Designate SRD copy...(no further changes)
Deputy killed as result of gunshot -- crime involved	SH-R-49 SH-CR-563 SH-AD-92 URN 01 (0)	Homicide Bureau and Unit of assignment for crime involved; Health and Safety A	Immediately notify Homicide Bureau and the on-call Internal Affairs Bureau Lieutenant. Follow special instructions/notifications as outlined above, "Deputy Injured as Result of Gunshot." See Volume 5, Chapter 9, for further information. Code 011 - Murder.
Deputy injured or killed -- no other crime involved	SH-R-49 SH-AD-92 SH-CR-563 URN 01 or 50 (0)	Homicide Bureau; Health and Safety A	Make immediate notification to Homicide Bureau, the on-call Internal Affairs Bureau Lieutenant, the Deputy's Unit Commander, the Area Commander or Duty Officer, Health and Safety Unit, and the Sheriff's Information Bureau. Reports to include...(no further changes)

(Continued on next page)

Revise the first, second, third, fourth, fifth, and seventh paragraphs under Section 4-22/030.00 SHOTS FIRED BY DEPUTIES – ON OR OFF DUTY to read as follows:

CLASSIFICATION (Crime or Incident)	FORM # FILE # PRIORITY (RET.)	ASSIGN. AND ACTION	ADDITIONAL INFORMATION AND STATISTICAL CODES
Accidental discharge of firearm by Deputies	SH-AD-32A		Whenever a Deputy, on duty or off duty, discharges a firearm with no crime, no injury, or damage, a memo shall be submitted to the employee's Unit Commander. The on-call Internal Affairs Bureau Lieutenant shall be notified immediately.
Animal shot	SH-AD-32A		Use classification of "Shots Fired" in the memo submitted to the Deputy's Unit Commander. Notify the on-call Internal Affairs Bureau Lieutenant immediately.
No injury or death – no crime involved	SH-AD-32A		Use classification of "Shots Fired" in the memo submitted to the Deputy's Unit Commander. Notify the on-call Internal Affairs Bureau Lieutenant immediately.
No injury or death – crime involved			See under crime classification for assignment, etc. Notify the on-call Internal Affairs Bureau Lieutenant immediately.
Person/Prisoner injured or killed	SH-R-49 SH-AD-519 URN 48 or 49 (0)	Homicide Bureau and Unit of assignment for crime involved A	Make immediate notification to Homicide Bureau, the on-call Internal Affairs Bureau Lieutenant, the Area Commander or Duty Officer, the Deputy's Unit Commander, and Sheriff's Information Bureau. Complete a brief...(no further changes)
Any of the above – occurring in outside jurisdiction			Make notifications to Unit Commander, Area Commander or Duty Officer, Homicide Bureau, Internal Affairs Bureau on-call Lieutenant, Health and Safety, and/or Sheriff's Information Bureau, as indicated under each classification.

SHERMAN BLOCK, SHERIFF

EXHIBIT Z

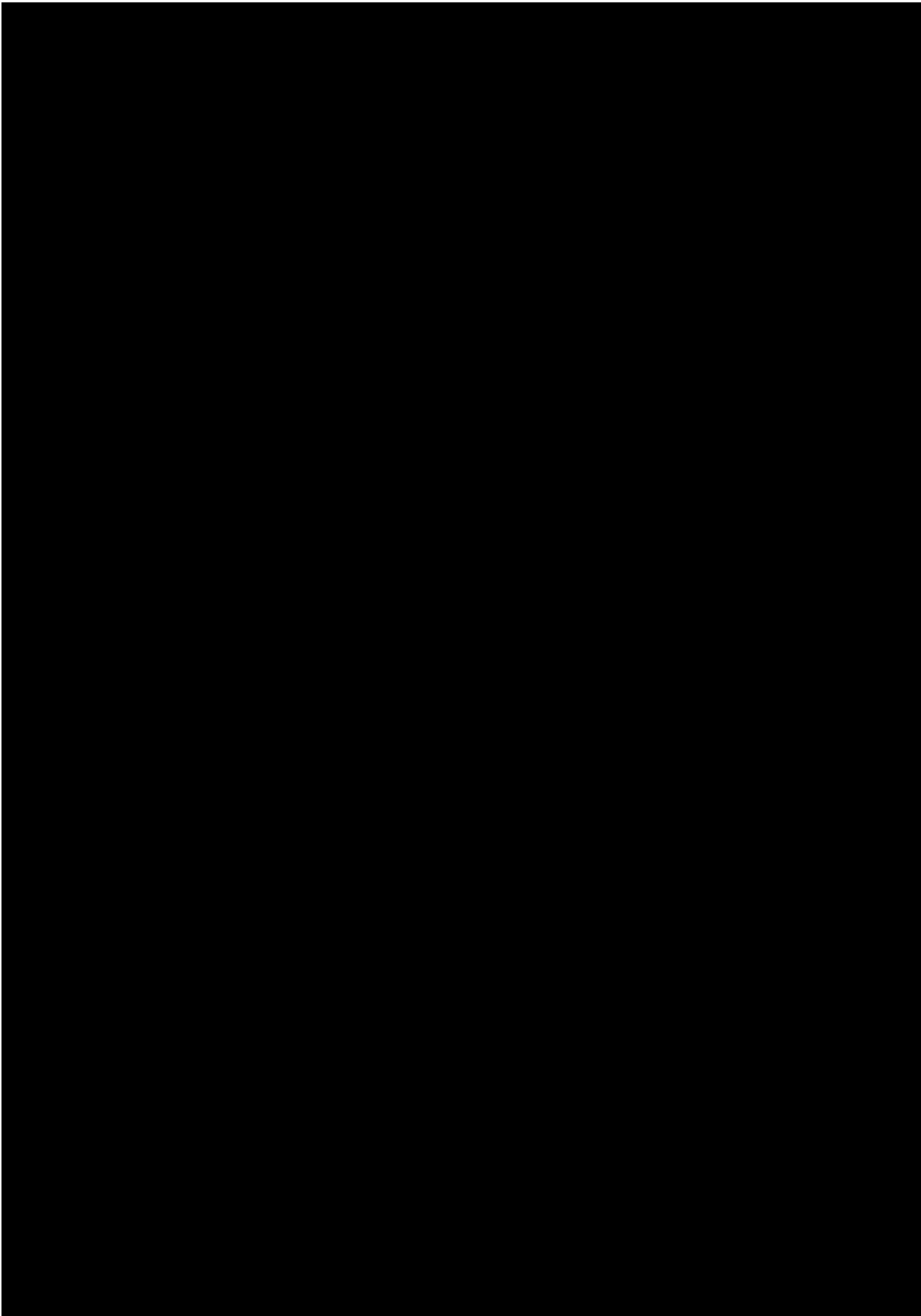
EXHIBIT AA

4000 FLR HALLWAY

↓

[redacted]

EXHIBIT BB



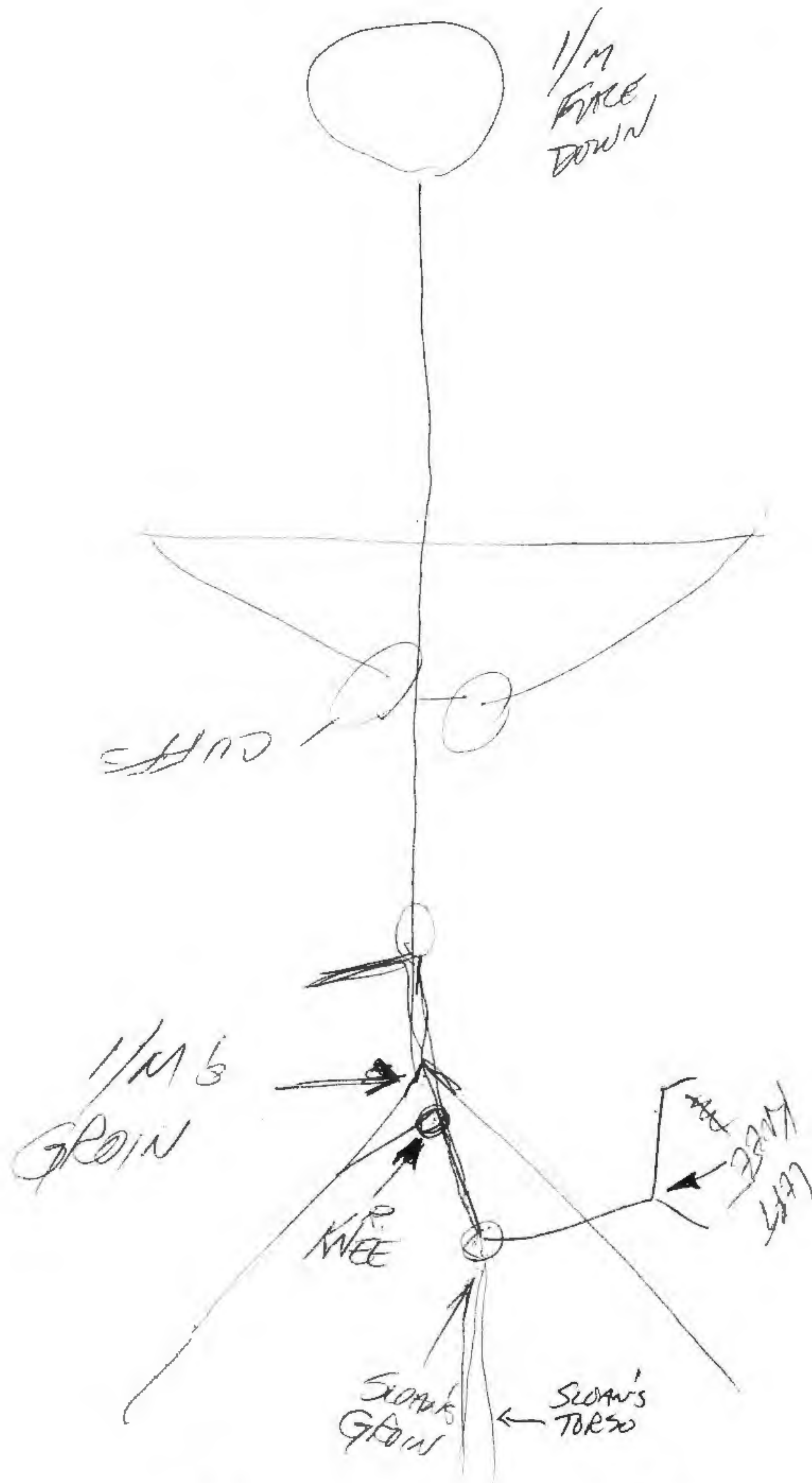
[redacted]

MODULE 4400 [redacted]

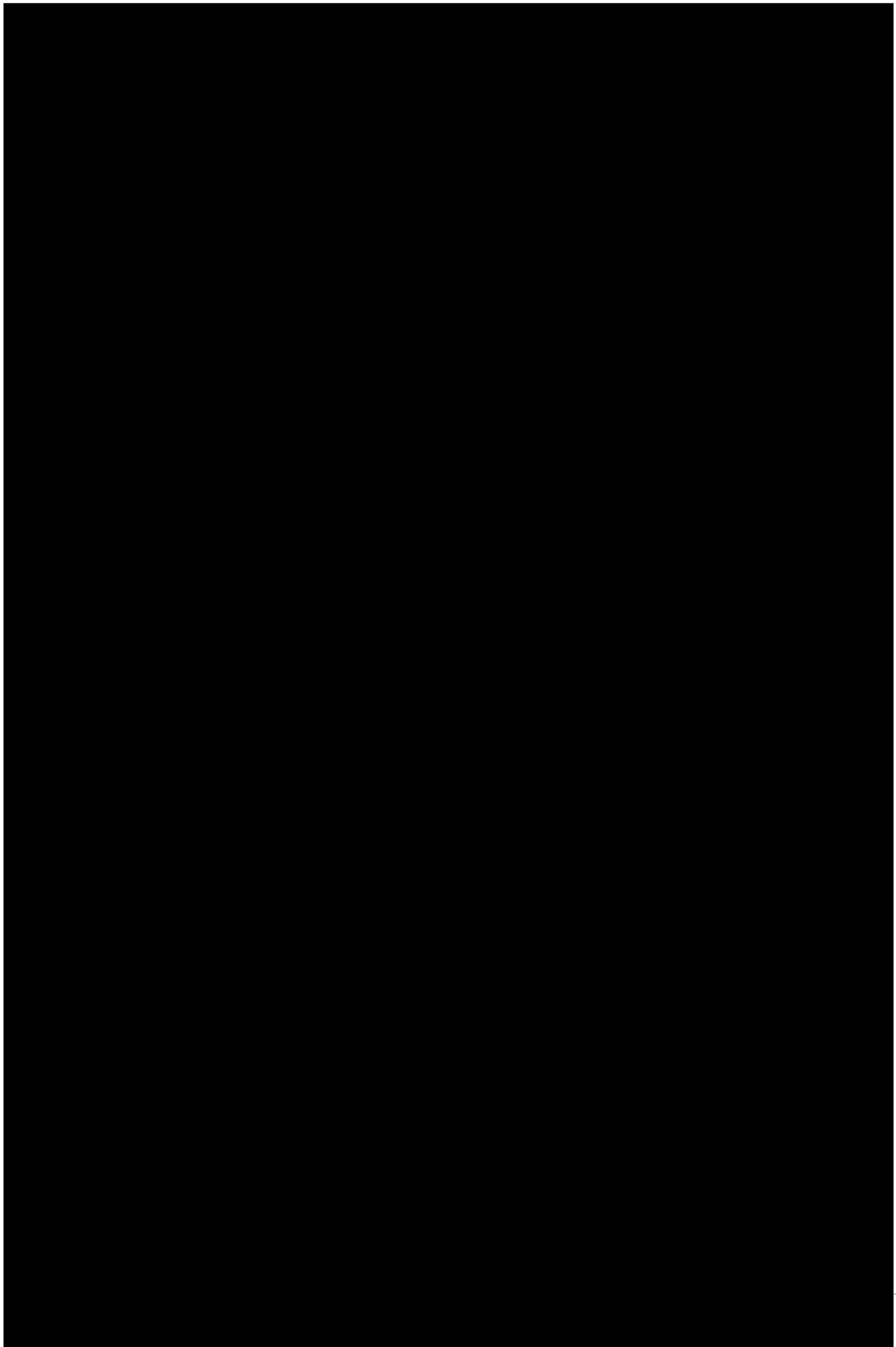
NOT TO SCALE

EXHIBIT CC

EARS



I/M FACE DOWN
CUFFS
I/M's GROIN
R. KNEE
LEFT KNEE
SLOAN's GROIN
SLOAN's TORSO



MODULE 4400

NOT TO SCALE

[redacted]

MODULE 4400

NOT TO SCALE

EXHIBIT DD

[redacted]

MODULE 4400

NOT TO SCALE

[redacted]

EXHIBIT EE

FACE DOWN

LEFT ARM

R. ARM

PUNCHING

L. LEG

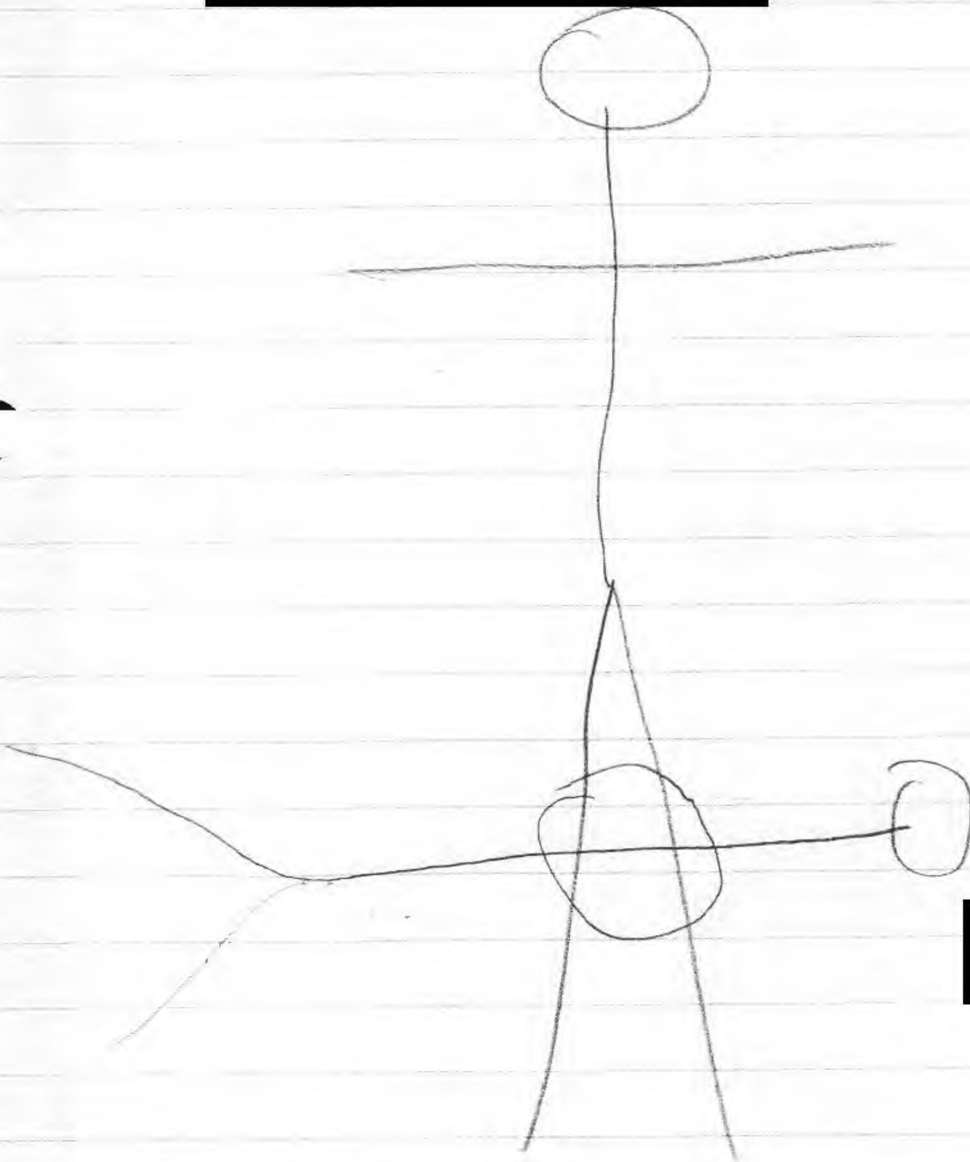
R. LEG

KNEES

NOT TO SCALE

[redacted]

[redacted]



[redacted]

[redacted]

[redacted]

MODULE 4400

[redacted]

NOT TO SCALE

EXHIBIT FF

EXHIBIT GG

YOU WILL BE ASKED TO LOOK AT A GROUP OF PHOTOGRAPHS. THE FACT THAT THE PHOTOGRAPHS ARE SHOWN TO YOU SHOULD NOT INFLUENCE YOUR JUDGMENT. YOU SHOULD NOT CONCLUDE OR GUESS THAT THE PHOTOGRAPHS CONTAIN THE PICTURE OF THE PERSON WHO COMMITTED THE CRIME. YOU ARE NOT OBLIGED TO IDENTIFY ANYONE. IT IS JUST AS IMPORTANT TO FREE INNOCENT PERSONS FROM SUSPICION AS TO IDENTIFY GUILTY PARTIES. PLEASE DO NOT DISCUSS THE CASE WITH OTHER WITNESSES NOR INDICATE IN ANY WAY THAT YOU HAVE IDENTIFIED SOMEONE.

I HEREBY [redacted] THE ABOVE PARAGRAPH AND FULLY UNDERSTAND ITS CONTENTS: [redacted] DATE Nov 6 1994

EXHIBIT HH

YOU WILL BE ASKED TO LOOK AT A GROUP OF PHOTOGRAPHS. THE FACT THAT THE PHOTOGRAPHS ARE SHOWN TO YOU SHOULD NOT INFLUENCE YOUR JUDGMENT. YOU SHOULD NOT CONCLUDE OR GUESS THAT THE PHOTOGRAPHS CONTAIN THE PICTURE OF THE PERSON WHO COMMITTED THE CRIME. YOU ARE NOT OBLIGED TO IDENTIFY ANYONE. IT IS JUST AS IMPORTANT TO FREE INNOCENT PERSONS FROM SUSPICION AS TO IDENTIFY GUILTY PARTIES. PLEASE DO NOT DISCUSS THE CASE WITH OTHER WITNESSES NOR INDICATE IN ANY WAY THAT YOU HAVE IDENTIFIED SOMEONE.

I HEREBY [redacted] PARAGRAPH AND FULLY UNDERSTAND ITS CONTENTS [redacted] DATE 11-1-94

EXHIBIT II

YOU WILL BE ASKED TO LOOK AT A GROUP OF PHOTOGRAPHS. THE FACT THAT THE PHOTOGRAPHS ARE SHOWN TO YOU SHOULD NOT INFLUENCE YOUR JUDGMENT. YOU SHOULD NOT CONCLUDE OR GUESS THAT THE PHOTOGRAPHS CONTAIN THE PICTURE OF THE PERSON WHO COMMITTED THE CRIME. YOU ARE NOT OBLIGED TO IDENTIFY ANYONE. IT IS JUST AS IMPORTANT TO FREE INNOCENT PERSONS FROM SUSPICION AS TO IDENTIFY GUILTY PARTIES. PLEASE DO NOT DISCUSS THE CASE WITH OTHER WITNESSES NOR INDICATE IN ANY WAY THAT YOU HAVE IDENTIFIED SOMEONE.

I HEREBY [redacted] BOVE PARAGRAPH AND FULLY UNDERSTAND ITS CONTENTS: ______ DATE 11·17·94

EXHIBIT JJ

YOU WILL BE ASKED TO LOOK AT A GROUP OF PHOTOGRAPHS. THE FACT THAT THE PHOTOGRAPHS ARE SHOWN TO YOU SHOULD NOT INFLUENCE YOUR JUDGMENT. YOU SHOULD NOT CONCLUDE OR GUESS THAT THE PHOTOGRAPHS CONTAIN THE PICTURE OF THE PERSON WHO COMMITTED THE CRIME. YOU ARE NOT OBLIGED TO IDENTIFY ANYONE. IT IS JUST AS IMPORTANT TO FREE INNOCENT PERSONS FROM SUSPICION AS TO IDENTIFY GUILTY PARTIES. PLEASE DO NOT DISCUSS THE CASE WITH OTHER WITNESSES NOR INDICATE IN ANY WAY THAT YOU HAVE IDENTIFIED SOMEONE.

I HEREBY CERTIFY THAT I HAVE READ THE ABOVE PARAGRAPH AND FULLY UNDERSTAND ITS CONTENTS: [redacted] DATE 11-17-94

EXHIBIT KK

LOS ANGELES COUNTY
DISTRICT ATTORNEY

CHARGE EVALUATION WORKSHEET

(T055)

☐ Further investigation requested.
☐ Probation Violation in lieu of filed.
☒ Prosecution declined

DA CASE NO. R979631

POLICE CASE NO (DR OR URN NO.) 494-0023-2300-474

Page 1 of 5

17. Date (Mo Day Year) 6-27-95

DA OFFICE CODE SID 95-0140R

SUSPECT DATA

SUSP NO	SUSPECT NAME (LAST-FIRST-MIDDLE)	19. BOOKING NO	20. CHARGES CODE	SECTION	SUB SECTION	REASON CODES (CIRCLE ONE COUNT)
1	KLUTH, DAVID		PC	149		A (B) C D E F G H I J K L M N
						A B C D E F G H I J K L M N
2	[redacted]		PC	149		A (B) C D E F G H I J K L M N
						A B C D E F G H I J K L M N
3	[redacted]		PC	149		A (B) C D E F G H I J K L M N
						A B C D E F G H I J K L M N
4						A B C D E F G H I J K L M N
						A B C D E F G H I J K L M N

DOJ REASON CODES — FOR USE ON THIS FORM AND JUS-8715

A Lack of Corpus
B Lack of Sufficient Evidence
C Inadmissable Search & Seizure
D Victim Unavailable Declines to Testify
E Witness Unavailable Declines to Testify
F Combined with Other Counts Cases
G Interest of Justice
H Other - Indicate the Reason in Remarks Section
I Referred to non California Jurisdiction
J Deferred for Revocation of Parole
K Further Investigation
L Prosecutor Prefiling Deferral

L.A. COUNTY D.A. REASON CODES — NOT FOR USE ON JUS-8715

M Probation Violation in lieu of filed
N Referred to C.A. for Misdemeanor Consideration

DESCRIPTION

PLEASE SEE ATTACHED FOR DETAILS

GIL GARCETTI District Attorney	COMPLAINT DEPUTY (PRINT)	18. DEPUTY CODE	COMPLAINT DEPUTY (SIGNATURE)	REVIEWING DEPUTY	PROMIS CHECK COMPLETE
	RANDALL J. BARON/ae	[redacted]	[signature]	[signature]	

In submitting this matter for consideration of a complaint, written reports of substantially all available evidence (except as to the oral information, if any, purporting to have been given by me and which is fully and correctly stated above) have been submitted to the above named Deputy (copies of which are attached hereto) except the following

The disposition of this matter will be final unless the commanding officer requests reconsideration of the case, stating his reasons on the back of this form.

mailed 6-28-95

OFFICER
Sgt. Erick Hamilton
LASD/TCTR

DA 773-H-76R269U-Rev 5 93

On April 5, 1995 we received a 229-page report from the Los Angeles County Sheriff's Department - Internal Criminal Investigations Bureau (ICIB) alleging a possible Assault under Color of Authority by four Deputy Sheriffs assigned to Men's Central Jail (MCJ). After reviewing the report and weighing the relative credibility of the witnesses likely to be called in this case, our office is declining prosecution.

SUMMARY OF THE FACTS

On October 27, 1994 [redacted]. was in custody and housed in Module 4400 of Men's County Jail. Sometime between 12:00 a.m. and 1:00 a.m. a physical confrontation began between Deputy Kluth and [redacted] As the situation escalated, Deputy Kluth was joined by Deputies [redacted] and Sloan. As a result of this altercation, [redacted] sustained a laceration above his left eye which required nine stitches, and a fracture to his left testicle which required its surgical removal. There is a conflict between [redacted] and the four deputies as to how the injuries occurred.

[redacted]

In a taped interview given to Detectives Hamilton and Bell of ICIB, [redacted] said that on the above date and time he was out of his cell in order to obtain medication for seizures. He tried to speak with Deputy Kluth, but Kluth ignored him. When he tried to return to his cell it was locked, and Kluth ignored his requests to re-open it.

Approximately one hour later Deputy Kluth approached [redacted] and attempted to place handcuffs on him. When Kluth grabbed [redacted] resisted and a struggle ensued. [redacted] placed Deputy Kluth in a "headlock." [redacted] stated that while he had Kluth in a "headlock", ten or more deputies entered the module approaching him and Deputy Kluth. [redacted] eleased Kluth and was immediately attacked by the responding deputies.

[redacted] said the deputies began punching him and kicking him multiple times (fifty punches and twenty kicks). He was eventually handcuffed and placed on his stomach. While in that position, [redacted] claimed that his head was lifted and then smashed into the concrete floor; his legs were physically pulled apart and deputies kicked him multiple times in the groin. He further stated that from the time he let go of Kluth, he did not struggle with the deputies.

[redacted] however, could not identify which deputies either punched him or kicked him. [redacted] was able to provide a description of only Deputy Kluth. He was shown five photo line-ups with six deputies (including those allegedly

involved in the incident) in each photo lineup. [redacted] positively identified three deputies, Deputies Sloan, Lord and Southworth. According to Sergeant Hamilton, a review of the work schedules of Deputies Lord and Southworth revealed that they were not working at MCJ at the time of this incident

Deputy David Kluth

In a report voluntarily written by Deputy Kluth, he described the altercation between himself and [redacted] Kluth wrote that [redacted] left his cell without permission when the cell was opened. [redacted] was told over the public address system to go back inside his cell, but he did not comply. After several attempts to get [redacted] to return to his cell, Kluth closed the cell and locked [redacted] in the row.

Kluth left the control booth and ordered [redacted] to face the wall. [redacted] again did not comply. Kluth then grabbed [redacted] right shoulder to turn him around. [redacted] lunged at Kluth, grabbed him around the neck and began to choke him. Kluth said that [redacted] was also trying to hit him in the face with his left fist.

Kluth was able to break free for a moment, but [redacted] jumped at him, grabbed him around the neck and started to choke him again. As the two fell to the ground Deputies Sloan, [redacted] and [redacted] entered the row. The deputies freed Kluth from [redacted] grasp and restrained [redacted]

Deputy [redacted]

In a supplemental voluntary report prepared by Deputy [redacted] [redacted] wrote that he responded to Module 4400 regarding a deputy-involved fight. As he entered the module he saw [redacted] with a "choke hold" on Deputy Kluth. As he approached, both [redacted] and Kluth fell to the floor.

In order to restrain [redacted] [redacted] struck [redacted] several times with his right fist in the right shoulder. He also attempted to apply a "knee thrust" to [redacted] right side. Neither of these efforts were successful in gaining compliance from [redacted] Eventually [redacted] with the assistance of Deputy Sloan, was able to place [redacted] right arm behind his back .

Deputy [redacted]

In a supplemental voluntary report, Deputy [redacted] wrote that as he entered the module, he also saw Deputy Kluth in [redacted] choke hold. He saw [redacted] and Kluth fall to the floor as he approached.

[redacted] first placed his left leg on the back of [redacted] legs and his left arm in the small of [redacted] back. He ordered [redacted] four or five times to place his right arm behind his back. [redacted] continued to violently resist.

[redacted] struck [redacted] five times in the back of his right thigh in order to get him to comply. He stopped using force when he saw that Deputies Sloan and [redacted] had [redacted] right arm behind his back.

Deputy Gary Sloan

Deputy Sloan also described his involvement. In a voluntary supplemental report, he wrote that the only force he used was in applying pressure with his thumb underneath [redacted] chin, and in assisting Deputy [redacted] in bringing [redacted] right arm behind his back.

ANALYSIS

A deputy may use a reasonable amount of force to lawfully arrest or restrain an inmate. Further, any person may use a reasonable amount of force to protect himself or another from bodily injury. In the present case, the force used by Deputy Kluth in an attempt to restrain [redacted] and then to free himself from a chokehold was clearly reasonable and lawful. Similarly, a reasonable amount of force used by the assisting deputies to free Deputy Kluth and to restrain [redacted] would also be lawful.

On the other hand, [redacted] account, in which his legs were spread apart and he was kicked multiple times in the groin, could be considered excessive force under virtually any set of facts. However, in order to successfully prosecute this case, a jury would have to find beyond a reasonable doubt that there was in fact an excessive amount of force used and that the excessive force could be attributed to a particular deputy or deputies. Therefore, two insurmountable problems exist in this case: (1) Identifying which deputy caused the injuries to [redacted] and (2) convincing a jury that [redacted] has sufficient credibility to justify a conviction.

[redacted] is unable to identify the actions of individual deputies. Also, he erroneously identified deputies that were not involved. There is insufficient evidence at the threshold level to justify charging any deputy.

Even i[redacted] were to properly identify a particular deputy, his [illegible] so suspect that it would be virtually impossible to obtain a conviction. [illegible] admission [redacted] has a history of violence in the prison system. [illegible] the detectives on this case that he was sent to Pelican Bay, a maximum security

prison, because of his continued fighting while in prison.

Again by [redacted] own admission, he has lied regarding this incident on other occasions. [redacted] informed Sergeants Hamilton and Bell from ICIB, when interviewed about this matter, that he previously told a sergeant and a clinical nurse that he was beaten up by other inmates. It was only when he was taken to USC Medical Center that he claimed to have been injured by deputies. He also said that he had lied on a psychiatric examination in order to get sent to "Tascadero...cause they got women."

[redacted] credibility is further undermined by the medical staff at USC Medical Center. [redacted] was treated by three separate physicians at USC Medical Center, Dr. Conrad, M.D., Dr. Dunn, M.D. and Dr. Halus, M.D. None of the three doctors saw any physical injury consistent with being punched or kicked the number of times claimed by [redacted]

Finally, [redacted] bias and motivation are apparent, as illustrated by a statement Nurse Lillie Escobar overheard [redacted] make to another inmate in the USC Medical Center-Jail Ward. Although [redacted] had told Nurse Escobar that his injuries were caused by rival gang members, she heard him tell another inmate that "he had been beaten by the cops and was going to sue."

All of these factors combine to undermine the credibility of [redacted] Although he suffered significant injuries, it seems likely that he is being untruthful about the manner in which he received them. The account related by Deputy Kluth seems believable, certainly more believable than that of [redacted]

Therefore, for the above reasons, prosecution is declined.

EXHIBIT LL

DEPUTY'S USE OF FORCE REPORT

FORCE REVIEW PACKAGE

MEN'S CENTRAL JAIL

[ ] PRIMARY DEPUTY [ ] WITNESS DEPUTY

DATE: ____________ PAGE ____ OF ____

FILE #: ____________

INMATES NAME: ____________ BKG #: ____________

INCIDENT NARRATIVE: ____________

ORIGINAL

DEPUTY: ____________ EMP #: ____________
(LAST NAME, FIRST, M.I.)

EXHIBIT MM

781351N25A - SH-AD-32A (2/72) -

COUNTY OF LOS ANGELES

SHERIFF'S DEPARTMENT

DATE: February 23, 1994

OFFICE CORRESPONDENCE FILE NO.

FROM: AL SCADUTO, CAPTAIN
CENTRAL JAIL

TO: ALL PERSONNEL

SUBJECT: UNIT ORDER NO. 6.01/003
EXTRACTION TEAMS
(REVISION OF UNIT ORDER DATED DECEMBER 28, 1992)

Purpose of Order

To establish extraction teams for the purpose of removing and controlling recalcitrant or mentally unstable inmate(s) from the confines and close quarters of their cells when he poses an immediate threat to department personnel, civilian staff, himself, or other inmates.

Scope of Order

This order shall apply to all personnel assigned to Central Jail.

Order

The concept of the extraction team evolved from an obvious need for continuity in the process of removing and controlling recalcitrant or mentally unstable inmate(s) from the confines and close quarters of their cells.

It should be recognized that a coordinated approach to these incidents will actually reduce injuries to both deputies and inmates and thereby more closely adhere to our Department's goals, concept of operations and Custody Division directives.

It was apparent that capable team leaders would be required to direct and guide individual teams in their extraction endeavors. Thus Team Sergeants and Team Seniors will be chosen through the collegial efforts of the Unit Managers, Training Staff, and the Administrative Lieutenant and Sergeant of Central Jail. In turn, a roster of deputy personnel to man these teams for each shift shall be compiled by team Sergeants based on the deputies work product, maturity, physical abilities and inmate contacts.

The extraction team applicant's background shall be reviewed by the Training Lieutenant and Sergeant wherein their past and present yearly evaluations, inmate contacts and use of force incidents shall be closely scrutinized. Once this screening process is completed, the remaining list of names shall be submitted to the Unit Commander for final approval.

A training program shall be instituted for the extraction team leaders and team deputies by the unit training staff under the guidelines and approval of the Unit Commander. The individual teams will consist of eight personnel. Each shift shall maintain two teams which will be drawn from a master extraction team roster consisting of approximately twenty-five names. Each team shall be under the control of a team Sergeant or Senior. Under the team leader's command will be two shield deputies, two capture deputies, one "Arwen" deputy, one "Stingball" deputy and one video deputy.

Watch Commander's Responsibilities:

Once it has been determined by the floor sergeant that a cell extraction of an inmate may be required, he shall immediately notify the Watch Commander. The Watch Commander will order an extraction team to stand by and shall respond to the sergeant's location and confer with him to ensure that the situation fits the criteria for a cell extraction. i.e. the inmate poses an immediate threat to department personnel, civilian staff, himself, or other inmates.

After the extraction team members have assembled in front of Main Control and procured the necessary equipment, it is the Watch Commander's responsibility to enure that the extraction team sergeant thoroughly briefs the team on the required tactical plan that will be necessary for a successful and safe extraction.

The team will then respond to the location. Depending on the urgency of the situation, it shall be left to the individual Watch Commander's discretion as to whether he will attempt to talk the inmate into compliance or order an immediate deployment of the team. However, before deployment is ordered, the Watch Commander will advise the team leader of any additional information to aid in the extraction.

Once the team is deployed, the Watch Commander shall remain on scene until the cell extraction is completed and the inmate is neutralized and handcuffed. If the inmate has not received any substantial injuries, the watch commander should conduct his use of force interview with the inmate. The Watch Commander should then make certain that the inmate is escorted to the clinic in a timely fashion by a supervisor and the appropriate number of extraction team personnel.

The Watch Commander shall be responsible for reviewing the video tape after the operation with the extraction team members in the privacy of the Watch Commander's office.

The Watch Commander shall then seal the tape in an envelope and place the proper identifying information on same. The envelope shall be secured in the combination padlocked file cabinet, located in the Watch Commander's office, pending review by the Unit Commander. The Watch Commander shall not authorize the duplicating or editing of the original tape recording.

It is also the Watch Commander's responsibility to insure that proper reporting procedures are followed in the documenting of the use of force that was utilized during the cell extraction.

<u>Team Positions:</u>

TEAM LEADER responsibilities:

1) Overall supervision of the extraction team.

2) Present a concise tactical plan of extraction.

3) Assure that all team members understand their individual duties.

4) Proper deployment of equipment (i.e., stingball, grenades and Arwen).

5) All verbal contact with hostile inmate(s) or mentally unstable patient(s).

6) Team deployment at entry way and execution of entry.

7) Visual and voice control of entry.

8) The safety of team members during the incident.

9) The well being of inmate(s) or patient(s) once the individual is subdued.

10) All "use of force" reports and paperwork associated with the incident.

11) Debriefing of personnel (as time permits).

12) Overseeing cleaning and returning of equipment to proper storage areas.

NOTE* The Team Leader is the only person authorized to give orders during the entire extraction incident.

SHIELD DEPUTY responsibilities:

1) First entry into cell or room.

2) Immediate contact with and control of inmate.

3) Assist capture deputies in the handcuffing of inmate(s) or patient(s).

4) Assist in the proper transport of the inmate(s) or patient(s) to another location, if necessary.

* Shall remain silent during entire extraction unless a severe threat to team members arises i.e., deadly weapon produced by inmate or patient.

CAPTURE DEPUTY responsibilities:

1) Physically backing up shield deputies upon entry into cell or room.

2) Proper use of Hobble Restraint to inmate(s) or patient(s) legs. (Unit Order No. 6.08/002).

3) Assist in the proper transport of the inmate(s) or patient(s) to another location, if necessary.

* Shall remain silent during entire extraction unless a severe threat to team members arises i.e., deadly weapon produced by inmate or patient.

ARWEN DEPUTY responsibilities:

1) Proper deployment of "Arwen" gun as directed by team leader (as per department and division orders).

2) Continued vigilance during extraction.

3) Cleans and returns "Arwen" gun to storage area.

   * Shall remain silent during entire extraction unless a severe threat to team members arises i.e., deadly weapon produced by inmate or patient.

STINGBALL DEPUTY responsibilities:

1) Proper deployment of stingball hand grenade(s) at direction of team leader.

2) Removal of shields during handcuffing of inmate(s) or patient(s).

3) Gathering of "Stingball" grenade fragments upon conclusion of extraction incident.

   * Shall remain silent during entire extraction unless a severe threat to team members arises i.e., deadly weapon produced by inmate or patient.

VIDEO DEPUTY responsibilities:

1) Immediate response to and filming of problem location prior to deployment of extraction team (acting as scout for extraction team).

2) Filming of inmate(s) or patient(s) behavior prior to, during and after extraction.

3) Filming of extraction team during incident.

4) Continued filming of inmate(s) or patient(s) transport to another location, if necessary.

5) Upon completion of filming the extraction incident, the videotape will be immediately placed in possession of the Team Leader.

* Shall remain silent during entire extraction unless a severe threat to team members arises i.e., deadly weapon produced by inmate or patient.

TRAINING

All team members shall train a minimum of 1/2 hour each week and meet all department mandated classes in tactical weapons. Training exercises will consist of, but not be limited to, briefings, classes, walk-throughs, video presentations, handouts and practical applications i.e., "Redman" confrontation training.

"Redman" confrontations - training deputies dressed in protective head and body gear. The "Redman" simulating a hostile/combative inmate or patient will resist contact, control, and restraint by extraction team personnel. All team members will be expected to react as they would in an actual extraction.

Training staff will insure that all team members are capable of manning **every** position within the team with the exception of team leaders position.

*** During all training, should any team member fail to physically perform any assigned duties, fail to follow any orders or take independent actions, resulting from his loss of temper, he will be immediately dismissed from the exercise and subsequently removed from the extraction team roster.

The extraction team concept allows for maximum implementation of efficiency in the utilization and control of assigned personnel, and will ensure a safer work environment. This concept will, without doubt, enhance the department's position via training and expertise of team members. Video records will be maintained by the unit training staff, for training and possible court purposes.

AS:dr

LOS ANGELES COUNTY
SHERIFF'S DEPARTMENT

SHERIFF SHERMAN BLOCK

[redacted]

HERBERT H. PETTUS
CAPTAIN

MEN'S CENTRAL JAIL
OPERATIONS
FAX COVER SHEET

TELEPHONE: ([redacted]
FAX: [redacted]

DATE: 02/13/96 TIME: 1200

OFFICE: 1-A

ATTENTION: JOHN NENNETH

FAX NUMBER: 728-0186

FROM: SGT. BOWMAN

COMMENTS:

NUMBER OF PAGES INCLUDING THIS COVER SHEET: 7

LOS ANGELES COUNTY SHERIFF'S DEPARTMENT

EXHIBIT MM
(I.C.I.B. REPORT)

INTERNAL AFFAIRS BUREAU INVESTIGATIVE REPORT

I.A.B. 0083383
(Book 8 of 8)

CONFIDENTIAL

EXHIBIT LL

SHERMAN BLOCK, SHERIFF

COUNTY OF LOS ANGELES - SHERIFF'S DEPARTMENT

INTERNAL CRIMINAL INVESTIGATIONS BUREAU

PROFESSIONAL STANDARDS AND TRAINING DIVISION

FILE NO. 494-00023-2300-444

CLASSIFICATION: SUSPICIOUS CIRCUMSTANCES/POSSIBLE ASSAULT UNDER THE COLOR OF AUTHORITY - 149 P.C.

VICTIM(S):

SUSPECT(S):

COMPLAINANT/ INFORMANT: [redacted] MB/A

DATE/TIME: 10-27-94 AT APPROXIMATELY 0030 HOURS

LOCATION: MEN'S CENTRAL JAIL, MODULE 4400

INVESTIGATOR(S): SERGEANT ERIC HAMILTON, [redacted]/
SERGEANT RONALD BELL, [redacted]

COPY: INTERNAL AFFAIRS BUREAU

COUNTY OF LOS ANGELES - SHERIFF'S DEPARTMENT
PROFESSIONAL STANDARDS AND TRAINING DIVISION
ICIB FILE NO. 494-00023-2300-444

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COUNTY OF LOS ANGELES - SHERIFF'S DEPARTMENT
COMPLAINT REPORT

DATE: December 9, 1994

FILE NO: 494-00023-2300-444

C: Suspicious Circumstances, Possible Assault Under The Color of Authority, 149 PC

Action Taken: Active/ Additional Information

V: None

Address:

Age: Race:

Telephone No.:

I: [redacted] (Inmate)

Address: [redacted]

Telephone No.: [redacted]

L: 441 Bauchet St. (Module 4400)

City: Los Angeles

T: October 27, 1994, Approximately 0030 hrs.

S: None

On November 23, 1994, Internal Criminal Investigations Bureau (ICIB) received a request from Internal Affairs Bureau (IAB) to initiate a criminal investigation into allegations of excessive force by sworn employees assigned to Men's Central Jail (MCJ). During the preliminary administrative inquiry, IAB investigators determined that the case may be criminal in nature and would best be handled by ICIB.

The complainant purported that on October 27, 1994, EM shift deputies used excessive force while trying to subdue him. The complainant claimed that he was repeatedly punched and kicked after being handcuffed, resulting in him receiving emergency medical treatment at LCMC to remove a severely damaged left testicle and stitches to repair a cut above his left eye. The following employees were identified as participants and [redacted] pending the outcome of this investigation: Deputy David Kluth [redacted], Deputy [redacted] Deputy [redacted], and Deputy Gary Sloan [redacted].

This case will be investigated by Internal Criminal Investigations Bureau and reported by confidential supplemental reports under the above indicated file number.

SERGEANT ERIC K. HAMILTON, EMP. [redacted]
INTERNAL CRIMINAL INVESTIGATIONS BUREAU
PROFESSIONAL STANDARDS AND TRAINING DIVISION
APPROVED BY: Becky Bivens Lt. DATE: 12-21-94

CONTENTS
A. ETZEL
NOTED

1

COUNTY OF LOS ANGELES - SHERIFF'S DEPARTMENT

SUPPLEMENTARY REPORT

Date: February 13, 1995

File No: 494-00023-2300-444

C- Suspicious Circumstances, Possible Assault Under the Color of Authority, 149 PC

Action Taken: Active/ Additional Information

V- N/A

I- [redacted] MB/A, Booking No. [redacted]

D- October 27, 1994, at approximately 0030 hrs.

L- Men's Central Jail, Module 4400

S- N/A

On December 7, 1994, at approximately 1305 hrs., Sergeant Ron Bell and I interviewed Inmate [redacted] at Men's Central Jail, regarding his allegations of criminal misconduct by sworn personnel. The interview was tape recorded and subsequently transcribed.

Inmate [redacted] said that on October 27, 1994, he was housed in Module 4400, cell B-4. Between 0100 and 0200 hrs., his cell gate opened and he, along with his cellmate Michael, exited. Inmate [redacted] thought the booth deputy had opened the cell to allow him to get his seizure medication. He walked to the row gate and asked the deputy, who was standing outside the booth talking to a Hispanic trusty, for his medication. The deputy ignored him and continued to talk to the trusty. Inmate [redacted] returned to his cell and found it closed. Meanwhile, the deputy had directed and locked Inmate [redacted] cellmate into the "B" row showers. Inmate [redacted] waved his hands towards the booth and asked the deputy to open his cell. The deputy did not respond, so Inmate [redacted] continued to roam the row.

Note: The booth deputy, Inmate [redacted] cellmate, and Hispanic trusty were later identified as Deputy David Kluth [redacted], Inmate [redacted] [redacted] and Inmate [redacted] [redacted], respectively.

Approximately one hour later, the booth deputy stood at the row gate and ordered Inmate [redacted] off the row. He complied and exited the row. The deputy escorted him to and pushed him against the southwest wall, directly in front of the "A/C" row gates.

2

Inmate [redacted] turned toward the deputy and he (KLUTH) grabbed his left arm and attempted to handcuff him. The deputy attempted to turn him back towards the wall and place him in a rear wristlock, but he resisted and pulled away. They grabbed one another and wrestled throughout the sallyport area. The two combatants collided into the "B/D" rows' security bars and then Inmate [redacted] placed the deputy in a rear bear hug. A group of ten or more male deputies entered the module and approached the two. Each deputy wore a pair of white "surgical" gloves.

Inmate [redacted] released the deputy and was immediately attacked by the responding deputies. They punched and kicked him several times. He said that he fell to the floor and the deputies continued their assault. He distinctly remembered two deputies grabbed his head and pushed it into the concrete floor, striking the left side of his face. This action was done at least three times. Additionally, he remembered grabbing the "B/D" showers' security bars and one or more deputies kicking his hands away from them. This occurred while the remaining deputies continued to kick and punch him. He was then handcuffed him. Inmate [redacted] estimated that he was punched between twenty to forty times and kicked twelve times.

Inmate [redacted] said that after he was handcuffed and positioned on his stomach, deputies (unknown) grabbed his legs and spread them apart. One or more deputies then commenced to kick his testicles. A deputy subsequently yelled " that is enough " and the deputies discontinued their assault and applied the hobble restraints to the inmate's legs. Inmate [redacted] was unable to identify the participating deputies because he was laying face down. He estimated that he was kicked between two to fifteen times.

A sergeant and senior deputy arrived at the module and Inmate [redacted] told them that he had been beaten by inmates. He said that he had lied to the sergeant and senior deputy because he distrusted them. Inmate [redacted] estimated the entire altercation lasted for fifteen minutes (refer to attached transcripts for additional information).

Inmate [redacted] was taken to the Men's Central Jail Clinic and treated by the medical staff. He suffered a lacerated left eyebrow, minor facial lacerations and complained of stomach pain. He said that he never advised the medical staff of his injured testicle.

Inmate [redacted] was sent to USC-Medical Center Jail Ward for follow-up treatment. Upon his arrival, he advised the staff that he had been beaten by deputy personnel and experienced some discomfort in his groin region. He was examined and told that he had a testicular fracture of the left testicle. The testicle was subsequently deemed non-viable and removed.

Inmate [redacted] said that Inmate [redacted] witnessed the entire altercation and Inmate [redacted] possibly witnessed a portion of it.

Note: Inmate [redacted] was only able to provide a description of Deputy Kluth and no other deputy. However, On November 1, 1994, Internal Affairs Bureau's (IAB) investigator, Sergeant John Nemeth, presented Inmate [redacted] with five "Mug" show-up folders (A - E) depicting sworn personnel (attached). He positively identified Deputy Keith Southworth [redacted], Deputy Gary Sloan [redacted], and Deputy Kenny Lord [redacted], as participants in the incident. Deputy Lord and Deputy Southworth were not assigned to work EM shift on the date in question (10/27).

The following deputy personnel were identified by IAB, as participants, in the above incident and were [redacted] pending the outcome of this investigation:

1. Deputy David Kluth, Emp. [redacted]
2. Deputy [redacted] Emp. [redacted]
3. Deputy [redacted], Emp. [redacted]
4. Deputy Gary Sloan, Emp. [redacted]

Sergeant Eric K. Hamilton, Emp. [redacted]
Internal Criminal Investigations Bureau
Professional Standards and Training Division

Approved By: Gerald Burns Lt. **Date:** 2-16-95

[redacted]

717-00325-2500-444

"MUG" SHOW-UF FOLDER

A 5

[redacted]

1 2 3

[redacted]

4 5 6

I CAN NOT I.D. ENYONE

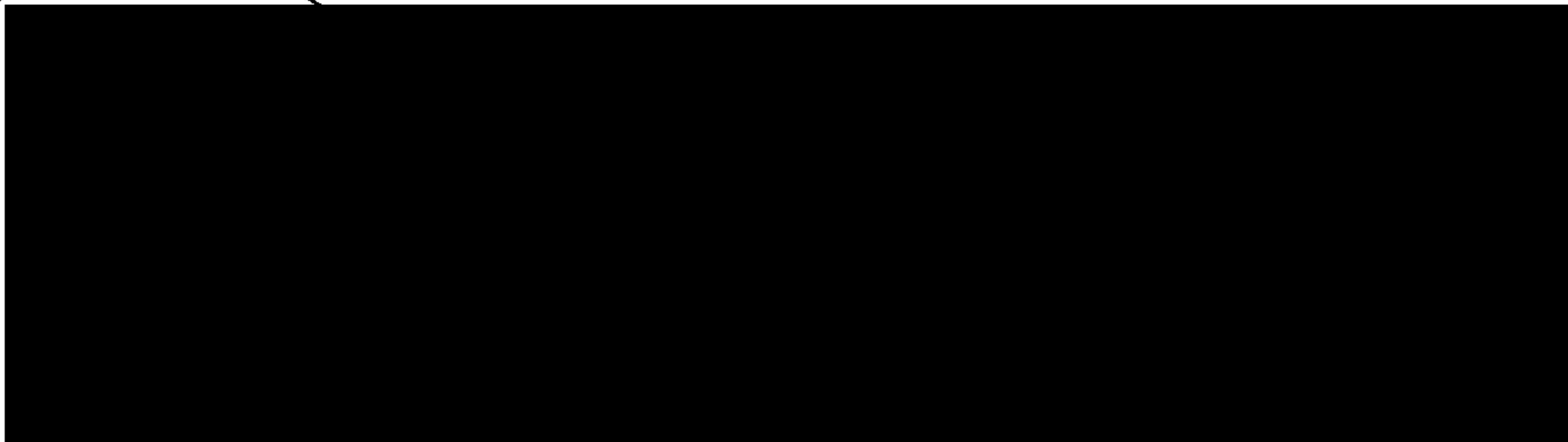
[redacted]

CR-574 8/87

"MUG" SHOW-UP FOLDER

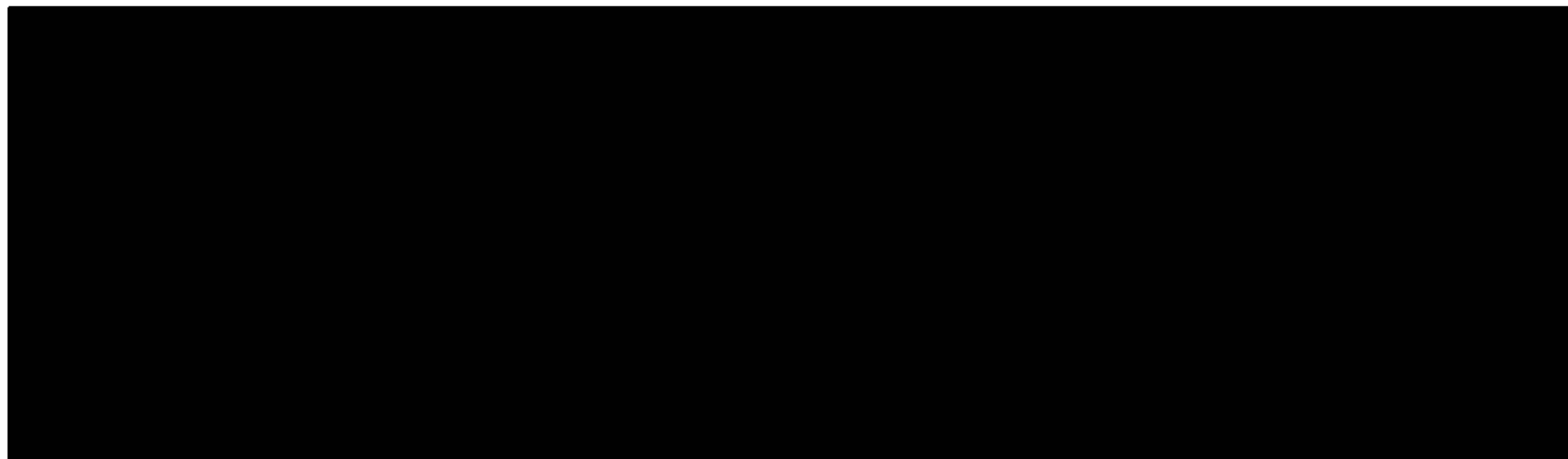
B

9


[redacted]

1 2 3

[redacted]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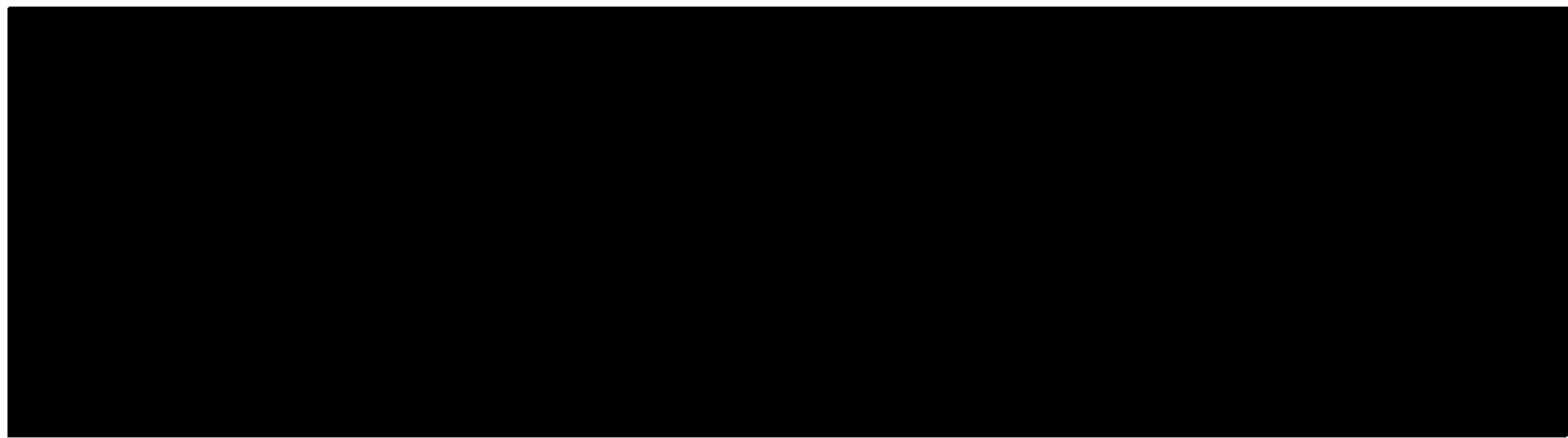
4 5 6

CR-574 8/67

"MUG" SHOW-UP FOLDER


[redacted]

1 2 3

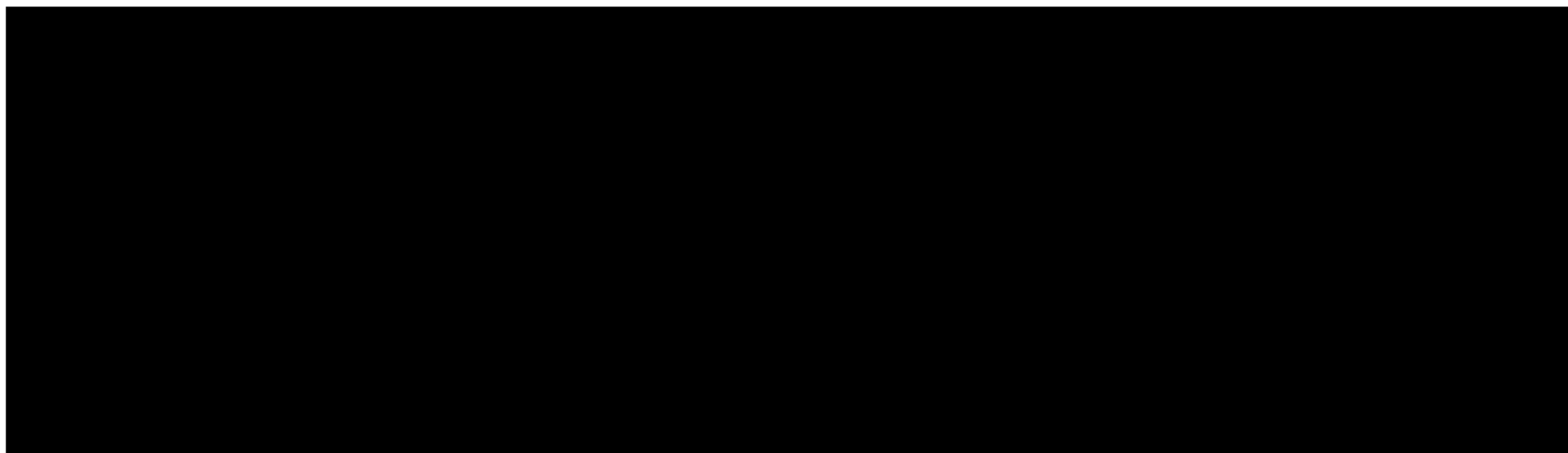
[redacted]

4 5 6

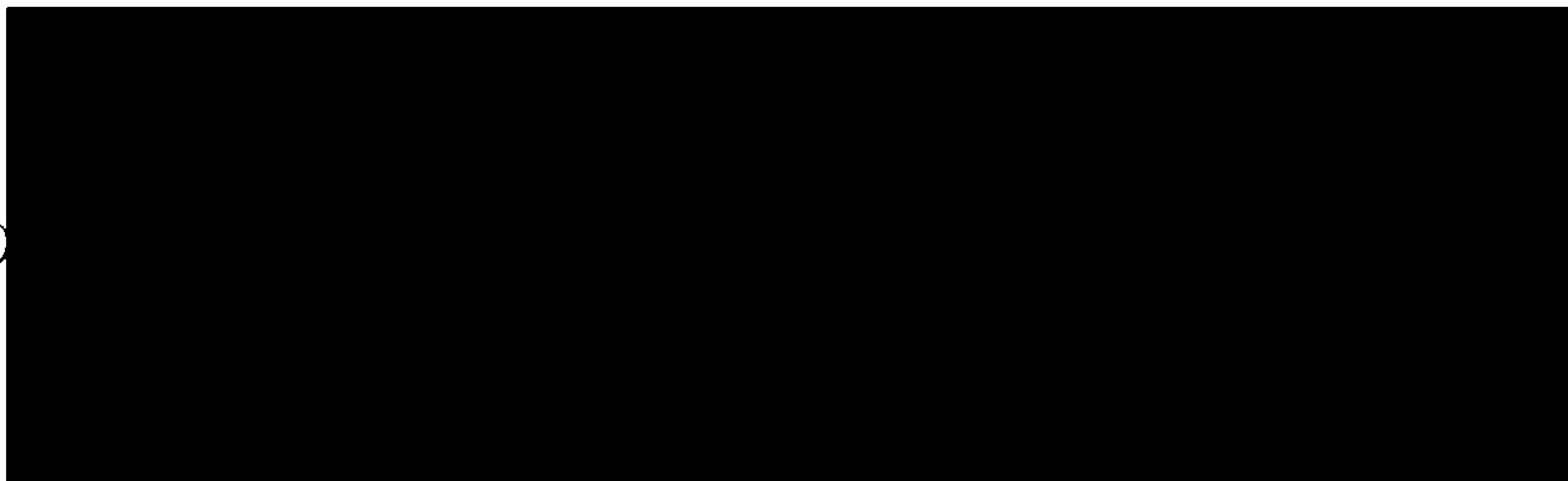
SH-CR-574
[redacted]

"MUG" SHOW-UP FOLDER

D 8



1 2 3

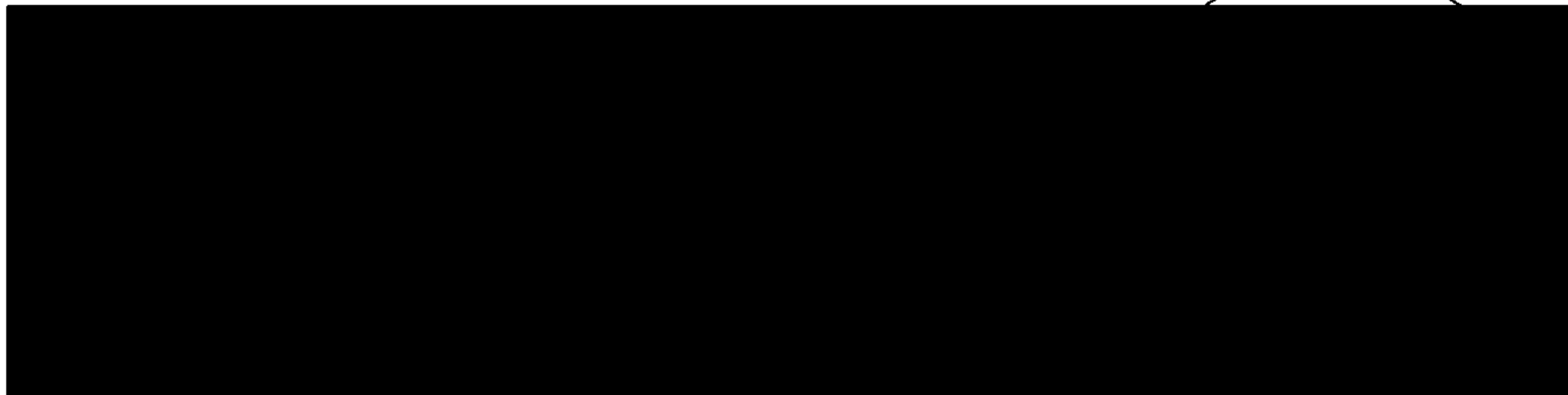


4 5 6

I CAN NOT I.D. ONLY ONE HERE

"MUG" SHOW-UP FOLDER

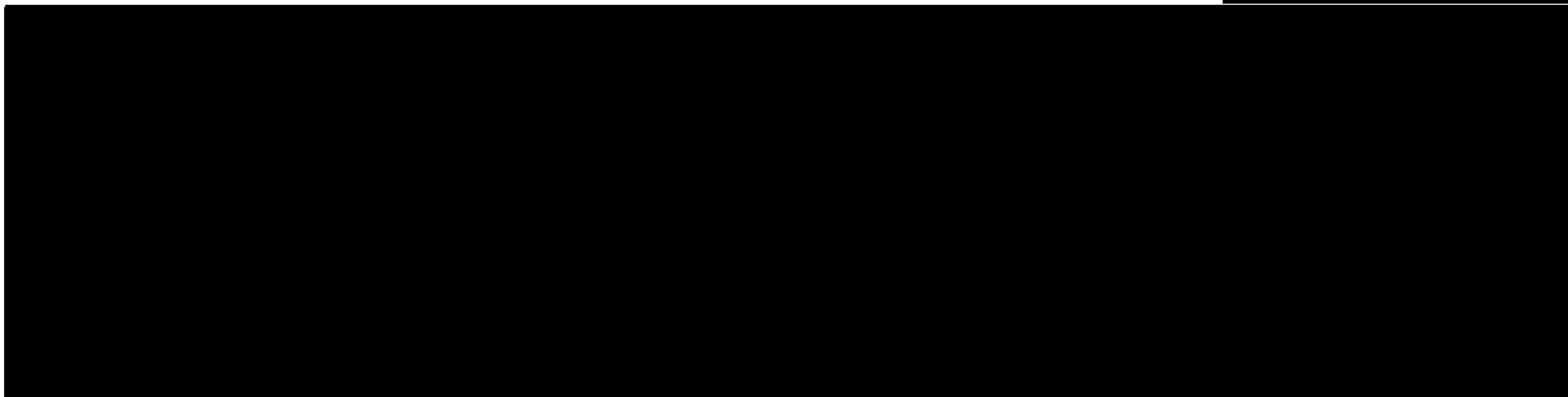
E 6


[redacted]

HE WAS THERE

1 2 3

[redacted]


[redacted]

4 5 6

WEDNESDAY, DECEMBER 7, 1994 AT 1305 HOURS

STATEMENT OF [redacted]

TAKEN BY SERGEANTS ERIC HAMILTON AND RON BELL, LASD INTERNAL CRIMINAL INVESTIGATIONS BUREAU. INVESTIGATION UNDER FILE NUMBER 494-00023-2300-444. STATEMENT TRANSCRIBED BY LUCI GUILLEN, ITC.

* * * * * * * * * * *

HAMILTON: Okay, today's date is December 7th, 1994. It's approximately 1:05 or 1305, we're here at Men's Central Jail in -- in the 7,000 Conference Room. We're going to be discussing an incident that occurred October 27, 1994 at Men's Central Jail in module 4400. We're here today to talk to [redacted] booking number [redacted]. This case is being investigated under I.C.I.B. file number 494-00023-2300-444. Present in the room is Sergeant Ron Bell, myself, Sergeant Eric Hamilton, both from I.C.I.B. First of all Mr. [redacted] were you housed in module 4400 on October 27th, 1994, approximately midnight?

[redacted] Yes, sir.

HAMILTON: Okay, did you have a chance to -- oh, well, let me back up. Were you involved in an incident with a deputy in that module at approximately 24 -- 2400 hours?

[redacted] Yes, sir.

HAMILTON: Okay, can you tell us what happened?

[redacted] Okay, the officer, the deputy, he opens up the cell door. I was in Baker 4 --

BELL: Why does he do that?

[redacted] I don't know.

BELL: Okay.

[redacted] It was late at night, he opens up the door. So, I thought, because I

just came from Wayside, and I assume he was going to let me get my medication because they had not given me no -- no -- didn't give me (unint.) cause I'm -- have seizures so I went up there, and I asked the deputy. I said sir, do you have my medication? He didn't say anything. At this time I walked back down to tier, thinking he's gonna open up my cell door so I could go back in and at the -- my friend named [redacted], cause like he's a White, guy he asked me can I get him some (unint.) cause he couldn't sleep. So, I said maybe I can. So I started roaming around, I got him, you know, trying to get him one, and this time when I came back I'm looking in the cell, and it's still closed. I looked in the shower. He was in the shower.

HAMILTON: Who's he?

[redacted] That's one of the witness. He's White, his name is [redacted]. I can't --

BELL: This is the same [redacted] that wanted the (unint.)?

[redacted] Yeah, the one, he wanted (unint.) so he can go to sleep. So, he said I'm cold in the shower. The deputy locked him up in the shower. I said, well, let me go to the cell and get you a blanket. Like I said the door was closed, so, I just got my blanket off of the bed, pulled it out, the bar, and gave it to my friend [redacted], my celly. In the same field. So -- so I goes back, and I wave my hand, officer, cell number 4. I wanna go -- I wanna go back in. He didn't respond. He didn't say anything. So I just started walking around. I said maybe if I walk around he'll see me, and open up the cell so I could back to sleep. Just about -- I'd say about a hour I got the broom. I started sweeping. At this time he stands on the stairs, and he said come here, you. I said, oh, me? So you gonna let me back in the cell? Come here, asshole. So I went up there. I said, are you going to get my medication? Get up, and hit the

fuckin' wall asshole. I said wait a minute, sir, look here. I don't want no problem. I'm already feeling dizzy like I'm gonna have a seizure, and at this time he's gonna put his handcuffs on, and I got scared because I'm been jumped on the first day I arrived here, when I first got arrested, which was September, no October the 27th. No, August the 27th when I got arrested. So those meant --

BELL: So who did you -- who did you get jumped on by?

[redacted] What's the officer's name?

BELL: Deputies?

[redacted] It was two -- two deputies.

BELL: Two deputies?

[redacted] But they didn't beat me all in my head they just -- one grabbed me in the choke hold. The other hit me in the neck because one officer said this guy know karate. He kick his leg way high, and he have my feet stripped down. He first get book took me down there to see the nurse about my medication, because they ask you if you're epileptic or seizure. So I was talking to the nurse, and I said oh -- oh, baby let me -- I'll take Dilantin. I said, baby, so I'll -- and then next thing you know he grabbed me from the back. I was handcuffed. Come here you fuck. I said what's up officer? I don't like your fuckin' mouth. He grabbed me in a choke, and the other started hitting me in the stomach. Boom -- boom, you got enough? You got enough? I said what did I do officer? Oh, I disrespect the nurse? Well, sir, I'm sorry. He said, no, you haven't got enough. I was sitting on -- on the bench outside the clinic first day I got arrested. Then the other one grabbed me, and he started hitting me in the stomach, boom -- boom, and I faked like I had a seizure. Oh, ain't nothing wrong with your asshole, get up,

and he took me on 7100. Well, that was that. Okay, now. So, I'm paranoid when he told me, right, on this -- we going back to when this officer called me from my cell.

HAMILTON: You're talking about October 27th?

[redacted] October 27th, now. So anyways -- so he throw me up against the wall, and he, you know, I said wait a minute officer, wait. Just let me talk to you. He put them cuffs on me, and so I said, oh, this guy gonna try to do something to me, you know. He grabbed me once before. And, so, --

BELL: Same officer?

[redacted] The -- yeah.

BELL: You said he grabbed you once before?

[redacted] The other officer. Yes, he -- yes, the same one. When it -- I first day I got here, they hit me in the stomach.

BELL: It's the same officer?

[redacted] The same officer that was on duty. And I said what you trying kill me or something? And he -- and -- and I'm -- and we wrestling now. Now I could have hurt this officer if I wanted to, but only thing I told him is, sir come on -- come on. I'm wrestling with him. So lets -- let me back in my cell. I don't wanna have no problems. I'm already sick and everything. That's when he rammed me against the wall, against the board, and I grabbed his head, I had him in a headlock, and at this time he's struggling, and I'm saying look sir, just let me go sir, I don't want to hurt you. I let him -- I was had him in the back. I'm holding now. I wasn't trying to hurt this officer. God -- God knows. So, I'm holding him back like this, you know, it -- it was a back towards me. I said come on, sir, just let me go to my cell,

and this time a whole lot of deputies come in here, so many I couldn't count. And he (unint.)_ they all rush me in. My celly [redacted], he'd seen everything. So, by this time they bop -- bop -- and hit me, they just beat me -- beat me. And one of the guys said he called me a nigger, but I didn't hear that. So, I said wait a minute. I went down when I was holding the bars, and he kept kicking me, and just beating me, and grabbing my neck. He was choking me, and then they grabbed me, and they handcuffed me. Right? Now, I was handcuffed, they were still beating me, and they got my head. But I have braids, and they, 1, 2, 3, on the floor, bam -- bam -- bam.

HAMILTON: So were you laying down at the time?

[redacted] I was laying down on my stomach, yeah.

BELL: What's -- what's hitting the floor?

[redacted] My head.

BELL: Your -- where on your head?

[redacted] Right, on the concrete. On the floor.

BELL: Where on the head?

[redacted] Right here. Where? On my eye. Right there on my eye.

BELL: Where you leaning on the side of your face where your eye was cut? That's --

HAMILTON: On the left wasn't (unint.)?

[redacted] On the left -- on the left side where's --

BELL: That's what hitting the floor?

[redacted] I had -- had nine -- I had nine stitches in there. You can see the

stitches been removed. I heard 'em again. They -- they all got me now, right? Like this here. and bam -- bam -- bam. I said oh, lord, I said [redacted] I mean, [redacted] call my wife. I seen them hitting me then they handcuffed me. I'm -- I'm dazed like that. I'm bleeding, and I felt -- I didn't see the officers kick me now. I felt somebody pulled my legs apart. These officers, cause I seen them when I came in there. There was a whole lot of them.

HAMILTON: But you didn't actually see --

[redacted] I didn't actually see who opened my legs, and kicked me in my -- they kicked me so many times I -- I passed out, right? Just opened my legs, and I felt bam -- bam -- bam, kicked me, and I felt a hand down on my nuts. Grabbed me, and -- and they smashing them up. I said, oh, I said lord and, this time I'm bleeding. I was swimming in my own blood and this --

HAMILTON: Let me ask you -- let my ask you something, and I'm not meaning to interrupt you.

[redacted] Okay.

HAMILTON: When -- when the deputies were smashing your head, did you still have a hold on this deputy?

[redacted] Did I have a hold of the deputy? No.

HAMILTON: When did you release him?

[redacted] Oh, as soon they -- when I had him -- I was holding him, right?

HAMILTON: Right.

[redacted] So as they came in the -- in the module there was a whole lot of them. (unint.), and I seen them I let them go, and at this time they just started beating me up. Blam -

- blam -- blam. I said wait -- wait a minute, sir -- wait, sir, don't kill me. I just want to get my -- my medicine that's all, and they started beating me (unint.).

HAMILTON: So you say beating you? Cause one again you have to understand that we're on tape --

[redacted] Yes, sir. The deputies.

HAMILTON: You know, though, what you're doing won't show on the tape so you have to --

[redacted] Okay.

HAMILTON: -- instead of this bam and boom --

[redacted] Okay -- okay.

HAMILTON: -- you're starting to sound like Batman.

[redacted] Right. Okay, the officers --

HAMILTON: Were they punching you?

[redacted] They was -- they was punching me.

HAMILTON: Were they kicking you? Were they spitting at you?

[redacted] They was --

HAMILTON: What -- what exactly were --

[redacted] The officers was punching me with their fist. They was kicking me.

HAMILTON: All of them?

[redacted] All. It was a whole lot of them. Yes, sir.

BELL: Your -- your still standing up at the time?

[redacted] No, I was laying down. I was on my stomach. I'm laying down like

this here.

BELL: When the fight started you're on your stomach?

[redacted] Yeah, cause they beat me down, and I went down to the floor, and I'm trying to cover up so they can't mess my face up, and the officers were beating with their fists. In fact one of them grabbed my neck (unint.) squeeze it, and then they just grabbed my head. Officers grabbed my head. It was about two of them. I felt four hands back 'em. One had my nose. There's a scratch mark right there. One of them had me like this here, and two officers, they said, ready, one, two, three, officers say bam -- bam -- bam. In other words they -- they just hit my head on the concrete, you know, three times. I did one and all that blood come out. Then the officers again, they counted one, two, three, and then grabbed me officers, then bammed my head on the floor again three times, and that time I laid down. I'm handcuffed - then they got the handcuffs. They handcuffed me in the back. After they handcuffed me in the back, they opened my legs. I couldn't see them cause I'm lying -- I was lying on my stomach, like this here. I was -- and he opened my legs. That's when -- I don't know which one kicked me.

BELL: Okay, hold it. He was lying on his stomach?

[redacted] I was lying on my stomach.

BELL: Left side of his face down on the floor?

[redacted] Yeah, with the left side of my face down on the floor, right here, and one of them pushed -- put -- put his neck on there.

HAMILTON: Put his neck --

BELL: He put his neck on your neck.

[redacted] And not -- he put his -- I mean he put his foot. He also put his foot when he had opened my -- my legs he -- I felt a -- a foot pushing my head --

BELL: On your upper part of --

[redacted] -- down on the ground.

BELL: What part of your neck --

[redacted] On the back part of my neck.

BELL: -- which side of your face?

[redacted] Yeah, on the -- the neck -- neck right there. Just holding my neck down.

HAMILTON: Okay, was he on the side of you, in the front of you, rear of you? Do you know?

[redacted] Well, this -- this officer was like on the side. He had his foot down right there. Don't --

HAMILTON: What side?

[redacted] He was on my right side.

HAMILTON: He was on the right side?

[redacted] Yes.

HAMILTON: He was flanking your right side?

[redacted] Yes. The officer, he just had his foot while the other one had my legs open.

HAMILTON: Foot? Or his knee or his leg, or --

[redacted] With his foot.

HAMILTON: Was he standing up or sitting down?

[redacted] He was standing up.

HAMILTON: Okay.

[redacted] Cause I'm -- like I said, I couldn't see his face, but I foot -- but a foot I felt this officer's foot on the back of my neck, and my neck holding down -- holding down -- holding my head down. Don't move. Don't move. At this time, they had me handcuffed, right? Then the officers, I don't know which one it was, they -- the officers, they started kicking me in my left, and they started kicking me in my -- my testicle, nut as they said. They started kicking me a whole lot of times. I did not see these officers who kicked me, because I like -- I -- I was lying down, and he kicked me, and I felt one hand reach and grab my testicle, my nuts and was like smashing them up. At this time they put -- they put handcuffs. The officers put handcuffs on my leg, and they hogged tied me. At this time the sergeant and the senior came in there, and I was so afraid to tell the truth to -- I just said a -- a senior. I know the senior. I used to work with him a long -- long time ago. I says, officer senior, please -- please. They jumped on me -- they jumped on me officer senior, and -- and -- my -- my celly -- they jumped on me. They beat me. Please, you off -- please. I -- I -- I just. Hey, I said that story to cover it up so, else, I knew since -- I figured if I would have told the serg -- the sergeant and the senior what really happened, I was afraid for my life, they might've just killed me, so I just faked the story.

BELL: How do you figure that?

[redacted] I assume, you know, because if they all was there together it -- it had to be a set up, so --

BELL: Why?

[redacted] Because the way it happened. How come these two comin' back? And they seen me hogged tied, and if my celly's had of beat me, there would've been blood in my cell. My celly is the one who called my wife, so they was probably in on it too. I just -- I was just -- I was paranoid.

HAMILTON: They who?

[redacted] The officers. The -- the sergeant and the senior. So I was looking, a senior. I said, yeah, thank you, senior, take me -- take me -- help me -- help me. The senior --

BELL: But you tell him this before you know there's -- you know there's anything.

[redacted] Huh?

BELL: You tell him that these Crips are beating you before you know whether they're gonna believe you or not.

[redacted] Right. To -- to the sergeant --

BELL: So -- so how do you know there's a big conspiracy? They just come in there. How do you figure they're conspiring?

[redacted] Well, sir. I was frightened. The only thing I wanted to do is make up a story to the sergeant and the senior so they could get me to the hospital, then I would tell it real because I was paranoid, and I was scared. Cause -- cause I heard the -- the sergeant, and the sergeant said shut up asshole. This was the sergeant. So if I had told him that, he might've been -- they probably wouldn't have -- the officers probably would've beaten me some more.

I was afraid. Only thing I wanted to do, sir, is for these officers to get me to the hospital. That's all I wanted, to get out of there, sir. I was afraid of -- for my life. So, he took me into the little clinic, and he pourd some water on my face, and one officer took a picture of me. Blood all over my face and everything. They -- and then -- the officer said, then he was -- they were -- they were happy with joy, the officer said, when they was -- when they was in the ambulance, [redacted] the fifth one got you, huh? When you -- when you was in your cell, huh, [redacted] I said yeah, uh, yeah, yes, sir. So as soon as I get to the hospital, my eye still bleeding and everything, and then my doctor, the one that did the surgery on me at U.C.L.A., right, General Hospital, he started examining me. He put a finger up my -- my butt, cause it was all bleeding, and he started -- he started feeling my -- my nuts. I said, doctor, it's hurting. It's killing me. He said, well, I'm going to give you some x-rays, cause it was paining.

BELL: Is this the first doctor you saw over there?

[redacted] Yeah, it's the first one. He's -- he's -- he's the surgeon. Now, he's the one who did surgery.

BELL: Did -- did another doctor see you prior to that?

[redacted] No, that's the only doctor I saw. He's the only one, so he -- then he took me to the x-ray room, and he x-rayed up in -- up under on my testicles and everything. He said one of them is fractured. So he told the surgeon. He said one of them is fractured. The left one is fractured.

BELL: He told the surgeon? Did he --

[redacted] He (unint.) I mean -- I mean the -- one of the -- the nurse that the x-ray --

BELL: The x-ray technician?

[redacted] The x-ray -- the x-ray technician. He told my -- my -- that my doctor, the surgeon, the one who did the surgery, that his left testicle is fractured, and so my doctor, the surgeon, he said [redacted] I'm going to try to repair it, but if it's too bad, I'm gonna have to remove it. He said -- and he told me, what happened? I said the deputies kicked me so many times I can't even count. He said okay, well, you have to go to surgery, and so then I said doctor -- before I went to surgery, right? This was the next morning. (Unint.) before, I said can I talk to my wife before I go to surgery cause I might not make it. So he said okay, and I talked to my wife, and she told me what is the hell -- what's wrong with you. What is wrong with you? Fighting the police. You're trying to get yourself killed. I said baby, I was not fighting the police. I was trying to hold -- I was trying to tell them, you know, let me go to my cell. I don't want to hear what your saying. She said, yeah, [redacted] your friend the White guy, he told me what happened. He seen everything. He said there was so much blood it scared him. He thought you was dead. So after the surgery the doctor told me, he said, Mr. [redacted] your left testicle, your nuts -- it was smashed like a jello. You've been kicked a whole lot of times. So, that's why I had to remove it. I said thank you, doctor. Thank you very much. God bless you, and -- and I let -- I looked at the doctor, and he said -- he just shook his head. He said that's -- he'd been kicked -- he said -- I said doctor, can you give me some pain medicine? I suffered the whole time I was in the hospital, in lot of pain, you know. So another thing I want to tell you, if my celly's -- now, you know, in my cell -- There was two White guys, two Mexicans, okay, one Mexican, and two Blacks, one old man, sixty years old. If they had of beat me, they was Bloods, would they have to call my wife. Think

about it, sir.

HAMILTON: Okay, we're not -- we're not --

[redacted] Okay. Uh-huh, yeah.

HAMILTON: We're not discussing that right now.

[redacted] But that's -- no, that's what happen.

HAMILTON: What we're looking at is -- is basically what happened with this incident.

[redacted] All right.

HAMILTON: And --

[redacted] Okay.

HAMILTON: We believe you at this point. You know, we're going on your word, so we're just trying to figure out the facts at this point of what happened.

[redacted] Uh-huh.

HAMILTON: We're not saying that the inmates beat you up.

[redacted] Okay.

HAMILTON: Cause we know that you were obviously involved in an altercation with the deputies. That's documented, okay?

[redacted] Uh-huh.

HAMILTON: They admitted to that. That's not a problem.

[redacted] Okay.

BELL: They knew that that night.

HAMILTON: Okay, so go ahead, and tell what -- anything else happen?

[redacted] Okay, so that was end of that -- okay. Then, once I was released from the hospital that was about seven days, they put me in the hole for ten days. Now, I asked one of the deputies in 3500, I said deputy can I have my seizure medication? You see I have seizures. I need my medication. The nurse came and he gave me -- I said I'm hurting too. I'm still hurting down in my left -- she gave me some -- the nurse gave me some Tylenol. I told the deputy, I said, sir, now, I don't know what you all trying to do. I don't supposed to be in no top bunk in the hole. I need my medication sir. I saw my record. The nurse said it's not on your -- your chart. I said what are y'all trying to do? You want me to be in the cell by myself in the hole and have another seizure? I said, well, I'm -- I'm gonna call -- I'll get somebody to call my wife, and -- and have her to call this lawyer that's gonna represent my case and everything because why do you think I had a seizure in Wayside. I had a seizure, and I'm having problems ever since this incident. Had seizure at Long Beach County Jail, as results, no medication.

BELL: In the court?

[redacted] In the court?

BELL: Long Beach Court?

[redacted] Long Beach --

BELL: Or the Long Beach County Jail?

[redacted] Yeah, the County Jail, Long Beach. You know, the new one?

BELL: There is none.

[redacted] No, I mean, not the County Jail, but the new (unint.) that's on Imperial and --

BELL: Central?

[redacted] -- Alameda.

BELL: Oh.

[redacted] Central. That new jail.

BELL: (Unint.) the Justice Center.

[redacted] Yeah, right there.

HAMILTON: That's who arrested you, right? Century Station, deputies.

[redacted] No, the Sheriff.

HAMILTON: Right, deputies.

[redacted] Yeah, okay, yeah. Yes, sir. The deputy, yeah. Yes, sir the deputies they did. And -- and then I had another (unint.) they do. Then I had a seizure as -- as the results of them not giving me my (unint.). Cause I have Gran Mall Seizure, and so then since they did this to me -- but I went to the hospital --

HAMILTON: Mr. [redacted] let -- let me -- let me -- let's get back to what we're hear to talk about, okay.

[redacted] Okay.

HAMILTON: Obviously I am concerned about your medical condition.

[redacted] Okay.

HAMILTON: But that's not what we're --

[redacted] Okay, well that's what happened.

HAMILTON: -- really here to discuss.

[redacted] Okay.

HAMILTON: But let's get back to some things. First of all, what time did this incident occur?

[redacted] Sir, it was -- it was after 12:00. Well, it had to be I'd say between 1:00, and 2:00 o'clock in the morning because when I got to the hospital it was about almost -- almost 3:00 o'clock.

HAMILTON: Okay.

[redacted] It was after midnight, definitely.

HAMILTON: Okay, you mentioned that this person [redacted] was in the shower while you were left out on the row, correct?

[redacted] The deputy had -- he locked him up.

HAMILTON: Right. Okay, and how did -- where did [redacted] come from? Did he come out of the cell with you? Was he out prior to you?

[redacted] He -- he came by the cell. He came by the cell with me.

HAMILTON: Okay, and the gates opened, and you both came out?

[redacted] Yes, sir.

HAMILTON: And then the deputy had him go to the shower?

[redacted] Yes, sir.

HAMILTON: Okay, where's the shower located?

[redacted] The shower's right -- deputies -- right on the floor. It's in before -- right at the end of Baker row. It's in the front of Baker row. The shower's right here, and you can see right on the floor where -- where I was -- where I was beaten by officers, and he was right here. He could see everything.

HAMILTON: Okay, if -- if I walk in that module, where is Baker row? Is it to the right or left?

[redacted] It's to the right.

HAMILTON: Right, upper or lower?

[redacted] About -- lower.

HAMILTON: Okay, so when I walk down the stairs of Baker row, where is the shower?

[redacted] The shower -- as soon as you walk down them stairs --

HAMILTON: Right.

[redacted] -- the shower is on your right.

HAMILTON: Okay, so that's where [redacted] was located, correct?

[redacted] Yes, sir.

HAMILTON: Okay, and then you happened to walk the row? You were on the row?

[redacted] Right.

HAMILTON: Left out there?

[redacted] Yes, sir.

HAMILTON: Okay, what did [redacted] look like and -- and, do you know his last name?

[redacted] Oh, as a matter of fact my -- my wife, she has his last name. She has all that information.

HAMILTON: But I'm asking you. Did you know --

[redacted] But I don't -- I forgot his last name. But my wife [redacted], she has

his -- his booking number and all that.

HAMILTON: Okay, what does he look like?

[redacted] Well, [redacted], my celly --

HAMILTON: If he's your celly, yeah.

[redacted] And he was my celly. Well, he's White, and got black hair.

HAMILTON: Okay, he have mustache, beard?

[redacted] He have a little mustache. He has a little mustache.

HAMILTON: Okay, is -- how tall is he?

[redacted] [redacted] -- [redacted] was about my -- about the same height I would say -- about the same height.

HAMILTON: Which is what?

[redacted] About 5'11, or 5 foot 11.

HAMILTON: How much does he way?

[redacted] I would say [redacted] kinda -- [redacted]skinny. I would say he would way about 140 to 50 pounds.

HAMILTON: Does he have any tattoos or anything?

[redacted] I never looked at him good enough to see if he had tattoos. I didn't see any.

HAMILTON: Was he a drug addict?

[redacted] [redacted]?

HAMILTON: To your knowledge?

[redacted] I don't know.

HAMILTON: You never talked about that?

[redacted] No.

BELL: Do you know what he's in for?

[redacted] No. We've never talked about it. I had -- I had just moved in his cell. He's always been real quiet.

HAMILTON: Okay.

[redacted] He never talked about his case or nothing.

HAMILTON: Okay, you said that the deputy -- you made contact with the deputy asking about your medication, you know, you were advising him that you needed medication.

[redacted] No, I just -- when he opened the -- the cell door --

HAMILTON: Right.

[redacted] I just asked him, do you have my medication, sir? He did not --

HAMILTON: Right.

[redacted] He did not say, oh --

HAMILTON: Okay, I understand that.

[redacted] Uh-huh.

HAMILTON: Okay, my question is, where was the deputy when you asked him that? Was he in the booth? Was he out in the Sally Port? Where was he?

[redacted] Out in the Sally Port. Right there --

HAMILTON: So he was outside of the -- the -- the --

[redacted] The booth.

HAMILTON: -- the booth itself.

[redacted] Yes, sir.

HAMILTON: So he's just standing -- where was he?

[redacted] He was just standing right there.

HAMILTON: Right, where?

[redacted] He was -- like he was telling the trustles what to do, how to clean up something. He made them -- oh, as a matter of fact -- I forgot to say this. He made them go downstairs. The trustys.

HAMILTON: Okay, we'll -- we'll talk about them in a second.

[redacted] Oh, so he was right there.

HAMILTON: Where -- where is right there. Was he in front of the row gate?

[redacted] Oh, well -- well sir, well, sir, he was -- he was of matter of fact he was in front of the tier before you go down.

HAMILTON: So he's right of front of the row gate?

[redacted] Yes, sir, right there.

HAMILTON: In front of what row gate?

[redacted] In front of Baker's row gate.

HAMILTON: Okay, in front -- so --

[redacted] Yes, sir.

HAMILTON: -- right in your row?

[redacted] In my row. Yes, sir.

HAMILTON: Was there anybody in the booth?

[redacted] Not that I know of. I didn't see anybody.

HAMILTON: You didn't see any deputies or anyone else civilians, or anybody in there?

[redacted] No.

HAMILTON: Okay, and then you walked up. You asked him about your medication, or you advised him that you need your medication, correct?

[redacted] Yeah, I told him I didn't have my medication.

HAMILTON: Okay, do you know what that deputy looked like.

[redacted] Yes, I do.

HAMILTON: Was he a deputy, first of all?

[redacted] Yes, he was a deputy. Yes, sir.

HAMILTON: Versus a custody assistant or something like that?

[redacted] A custody assistant?

HAMILTON: Right, they wear a green uniform.

[redacted] It was a beige --

HAMILTON: A sheriff's --

[redacted] -- beige and everything. The same.

HAMILTON: Okay.

[redacted] Beige khakies --

HAMILTON: Do you know who -- who that was?

[redacted] His name was -- it started with a K. Kross -- Krossman -- Kross or something.

HAMILTON: How do yo know it started with a K?

[redacted] Cause I looked at his -- his name.

HAMILTON: Okay.

[redacted] When he -- when he told me to come here, asshole.

HAMILTON: Okay.

[redacted] When he called me, sir?

HAMILTON: What did he look like?

[redacted] He got black hair. He's White, got black hair and a mustache.

HAMILTON: Okay, what kind of hairstyle? Straight?

[redacted] Oh, it's straight. Straight, same as his hairstyle. Like his.

HAMILTON: Which is what?

[redacted] Like.

HAMILTON: Like combed back, up, down?

[redacted] Yeah, but like back.

BELL: Combed straight back?

[redacted] Yeah.

BELL: Or pretty much straight back?

[redacted] Yeah.

HAMILTON: Okay, what color was it?

[redacted] Black.

HAMILTON: Black hair?

[redacted] Hair.

HAMILTON: And just combed back. Was it a flat top

[redacted] I think it's --

HAMILTON: -- or was it like it Pat Riley? Was it --

[redacted] I know his face. I -- you know, but it was cut -- it's cut kinda low, you know, it might've cut -- I know him personally if I see him.

HAMILTON: Okay.

[redacted] I know -- I know his face. That's all it is, a face and the name.

HAMILTON: Okay, and how tall was he?

[redacted] I would say about 5'10 and a half, this officer.

HAMILTON: Okay, and how much would say he weighed?

[redacted] I'd have to say he weighed about 165 pounds.

HAMILTON: Did you meant to say if he had any glasses or mustache or anything?

[redacted] No glasses.

HAMILTON: Clean shaven or mustache?

[redacted] He had a mustache.

HAMILTON: Okay.

[redacted] This officer, deputy.

BELL: Have you ever seen him before?

[redacted] Yes.

HAMILTON: Prior to that incident?

[redacted] Yes.

HAMILTON: Where did you see him?

[redacted] He was that -- that grabbed me and was choking me out. Had -- when

I first came in, this deputy. Him and his -- his partner.

BELL: That was down in the clinic.

[redacted] Down in the clinic.

BELL: So, that's -- is that the first day you were arrested?

[redacted] The first day I was arrested. Grabbed me.

BELL: So you were brought to Central Jail, the first day you were arrested?

[redacted] Yeah, I mean the first day. Yes, sir. And I, you know, I was arrested. I got booked and everything, and took me down by the clinic, and him partner -- and his partner.

BELL: Where were you book?

[redacted] I was booked at Central Station.

BELL: At Century Station?

[redacted] Central. C.J. here.

BELL: You were booked into Central Jail?

[redacted] Yeah, Central Jail.

BELL: You weren't booked out of Century Station?

[redacted] Oh, I mean, yeah, Century -- yeah, Century. Century that's where I got fingerprinted, yeah.

BELL: How long did it take you to get to get brought down here? Were you out there for a day or two?

[redacted] Oh, no. As a matter of fact the same day. It didn't take no time. They booked me. That's right.

BELL: So you got booked out there and --

[redacted] And they --

BELL: -- a couple hours later you got put on a bus, and you came down here?

[redacted] Yes, sir.

BELL: So that same day, you came down here?

[redacted] Uh-huh.

BELL: So that same day, in the clinic, these deputies assaulted you?

[redacted] The same one. Him and this other one blond hair.

BELL: Okay.

HAMILTON: You get a chance to talk to a sergeant on that day?

[redacted] No.

HAMILTON: Okay, and this occurred in front of the medical staff?

[redacted] No. Yes, the medical staff was there.

HAMILTON: Okay, so where did this actually occur. In the clinic --

[redacted] Okay in --

HAMILTON: -- or outside the clinic?

[redacted] -- in the clinic when -- when he gave -- in the clinic, this deputy grabbed -- grabbed me by the back of my pants --

HAMILTON: Okay.

[redacted] And before we got out the door, he pushed me down. So every nurse in that clinic seened it.

HAMILTON: Do you know what time that happened?

[redacted] Oh, I have -- I have to say between 7:00, and 8:00 o'clock.

HAMILTON: In the morning or evening?

[redacted] In evening.

HAMILTON: Okay.

[redacted] Evening.

BELL: And you didn't do anything --

[redacted] I didn't do nothing. He said I don't like your mouth. He told me --

BELL: -- except call this nurse babe?

[redacted] Yeah, I said baby. I said, well, baby, you know, and that's what -- that's why he said, is that? I said wait a minute, sir. I'm finish? Yes, I don't like your fucking mouth, and I had the handcuffs around like this here, the chain, and before we get off the clinic he threw me down, and then he picked me up, and grabbed me by my neck, and the other one hit me in my stomach. He said you got enough. The deputy just -- the deputy just punched me in my stomach, upper cut me in my stomach.

HAMILTON: Okay.

[redacted] This deputy. Then he take -- they took turns. Then he took me out the clinic on a bench and then grabbed me.

BELL: Out in the hall way?

[redacted] In the hall way. Right there in the hall way. And then chocked me choked me, like this here.

BELL: So they do all this because you called this nurse baby?

[redacted] Yeah, I said baby. I said -- I -- I was sitting down. I said, oh, I

understand, sir. I didn't mean to call here baby out of disrespect. But -- he said get up. This is the second time. Then the other one grabbed me, start choking me, and -- and I fell down on the floor.

BELL: Okay, have you -- have you had any other assaults in this jail besides the two talked about, since you've been here this one time?

[redacted] Not at this jail, but at Wayside.

HAMILTON: We're talking about deputies or inmates --

[redacted] Oh, no -- no -- no.

HAMILTON: -- with inmates?

[redacted] No -- no more assaults from the deputies. No.

BELL: How about other inmates? How many fights you been in with other inmates.

[redacted] Inmates? One. At Wayside, when it (unint.) --

BELL: The one at Wayside where you got who punched you in the lip?

[redacted] Yeah.

BELL: What was that all about?

[redacted] Say I was a snitch.

BELL: Okay, he said you were a snitch, and he punched you in the mouth?

[redacted] Yeah, and we started fighting.

BELL: Okay. How many times you've been in jail?

[redacted] And then -- How many times? I'm would say about three times.

BELL: About three times?

[redacted] Yeah, three times. Let me see, one, two -- yeah, three.

BELL: How many times you've been to prison?

[redacted] Three.

BELL: Every time you came to jail you went to prison.

[redacted] No, all the time was five. I got two violations -- two violations.

BELL: Okay, have you ever been beaten in prison?

[redacted] No. No, sir.

BELL: You ever have any altercations with staff in prison?

[redacted] No, sir. Oh, wait a minute -- wait a minute. Oh, I -- they sent me to the hole, that's right. At Chuckawalla Prison.

BELL: Okay.

[redacted] They -- this officer -- this deputy -- When they had his -- had me getting ready for inspection, so I asked this officer, I said, ma'am -- I said, sir, can I get some water cause it's real hot, and I have a seizure. I got -- got to cool off, deputy. And he said, okay, and I was comin' out, and then a female deputy, she says, what are you doing out your cubicle? I said the deputy said I can get me some water cause, you know, I have seizures, I -- I get hot. She says come here. Get up against the wall. Then this other one, her, and this other deputy grabbed me, and I tried to break away (unint.) the wall. I said wait a minute, you gonna break my hand like this. I said man -- I told him, sir -- stopped and pushing me, and a whole lot of them came and they grabbed me, throw me down, put them cuffs on me and took me to the hole.

HAMILTON: Okay.

[redacted] That's -- that's -- so and -- and then wrote me up assault on a officer. How am I have assault when I'm handcuffed?

HAMILTON: What prison is this?

[redacted] This is at Chuckawalla.

BELL: Chuckawalla.

HAMILTON: Okay.

[redacted] Chuckawalla.

HAMILTON: What other prisons have you been in?

[redacted] I've been to Folsom, Pelican Bay.

HAMILTON: Why? Why Pelican Bay?

[redacted] Why Pelican Bay?

HAMILTON: Yeah.

[redacted] Okay, Pelican Bay, because since I'm not gang affiliated -- they was ready to have a war with the Spanish and the Whites, and I didn't participate cause see, I'm not a gang banger, and so, you know, they told me all these gang bangers, Bloods, and Crips, your not gonna help us. I said, no because my grandmothers White, and I got relative that's Spanish. I don't have nothing to do with that. I'm not prejudice. He said all right, we'll get you. I said, well, come on with it. Come on. I don't care. I'm not fighting nobody. And so he, you know -- and -- and then one guy he mess around and stole on me and I beat the mess out of him. I went to the hole, and when I got out everyone jumped --

HAMILTON: Where was that at?

[redacted] At Chuckawalla. See when --

BELL: So you were at the hole twice at Chuckawalla?

[redacted] Yes. This is the second time for an assault on an inmate. He hit me first, but he lied, and said I hit him first, him and his homeboys. So I goes to the whole. As soon as I get out the hole, his homeboys want to jump on me.

HAMILTON: Uh-huh, and what happened?

[redacted] And I fight out. I hit him again. I just fight. Cause even the officer -- deputy said, [redacted] what you doing -- doing push ups? What you gonna do when you get out the hole? I'm gonna handle my business. If they hit me, I'm gonna hit them -- hit 'em back -- I'm fighting back.

HAMILTON: When you get --

[redacted] Cause I don't have to be in, you know, affiliated?

HAMILTON: When you got out of the hole, you said that his homeboys wanted to fight you. How many did you have to fight?

[redacted] It was about -- about six of 'em. So what it -- what happened -- I just get one of them partner I knew, I was raised with, his gang bangers, said hey, man check this out. These guys want to jump on me, just watch my back. I'm gonna fight one of 'em. And my points kept going gettin' higher and higher, assault on inmate. And so we went head up, and I whooped him, and my points kept going up and up. They send me back to the hole. I said y'all gonna release me from the hole on main line.

BELL: Your talking points going up.

[redacted] In other words your --

HAMILTON: If you fight that you are in violation.

[redacted] If you fight, you know, in any altercation, you know --

BELL: Okay.

[redacted] -- with inmates. Because you might have like ten, fifteen points level one. I mean, you get over forty points, you level four.

BELL: What happens at when your at level four?

[redacted] You go to level four institution.

BELL: So you go to Pelican Bay?

[redacted] They told me. No, your not going back. You got too many assaults on inmates. I said I was only defending myself. Your going to Pelican Bay.

HAMILTON: What happened when you were confronted with these -- these gang members and this guys buddies and stuff, you send anybody to the hospital?

[redacted] No.

HAMILTON: Did you have to go to the hospital?

[redacted] Un-nun.

HAMILTON: Okay. Did you have to go to the clinic?

[redacted] I just kick 'em in -- no.

HAMILTON: Did they have you go to the clinic?

[redacted] I just knocked him out.

HAMILTON: Well, you say there was a lot of 'em.

[redacted] No, see.

HAMILTON: I'm talking about when you got out of the hole.

[redacted] What this one -- okay, when I got out the hole -- so what I did -- they

want -- all of them wanted to jump on me, so I went and got a buddy of mine: I said wait a minute -- to watch my back.

HAMILTON: Uh-huh.

[redacted] And then me and him went head up. So I got friends watching my back.

BELL: Okay, so you go hole again?

[redacted] Uh-huh. Cause I knocked him out?

BELL: So this is third time in the hole?

[redacted] Yep. Cause I knocked him out.

BELL: How many times did you go to the hole?

[redacted] Oh, at Chuckawalla, I've been in the hole four times.

BELL: For what? All for fighting?

[redacted] One, for disrespect a officer. And he says -- says I stole a tray. You know, I got back in line. I -- which I did and -- but this other officer said I seen you. I says you didn't see nothing. Oh -- oh, so you gonna curse me out? I said ah, man. Now, you gonna send me to the hole. You going to the hole. They says I got -- they said I assaulted this female officer. They did -- anything I do they send me to the hole.

HAMILTON: And that was it, that one prison?

[redacted] Yeah, at this one particular prison. Chuckawalla.

HAMILTON: How about at Folsom or Pelican Bay?

[redacted] No Folsom, no problem.

HAMILTON: Pelican Bay?

[redacted] No, problem cause I was in the hole.

HAMILTON: The entire time?

BELL: At Pelican Bay you were in the hole?

[redacted] On parole from the hole at Pelican Bay. You see --

HAMILTON: Why were you in the hole at Pelican Bay?

[redacted] For fighting at Chuckawalla. They say I'm dangerous. So I -- I stayed in the hole.

HAMILTON: Let me ask you. When you got out on parole or wherever, whenever you were out in the streets, how many fights were you involved in? In the neighborhood or --

[redacted] Oh, neighborhood?

HAMILTON: -- on the job or whatever?

[redacted] Oh, none. I can get along good out in the streets because see I'm a family man. A lot of guys know me, you know.

HAMILTON: No, problem on the job. So if we go talk to your --

[redacted] My boss?

HAMILTON: -- your previous employers --

[redacted] Oh, no problem.

HAMILTON: (Unint.) not just you. Current employer if your working or you were. We're taking about the past employers as well. Are they gonna tell us that you've been involved in any altercations on the job?

[redacted] No. I used to be a security guard. A federal security officer.

HAMILTON: Okay. That doesn't mean that you can't get involved in a fight.

[redacted] Well -- well, no, I didn't get involved in no kind of fights. I always have been a good working man. You know, as a matter of fact they wanted me to go -- what they call it, little academy for the Sheriff and everything, but me -- my cousin had to put up with my house. He got my gun cause, you know, when you go to California Security Training School, right?

HAMILTON: Uh-huh.

[redacted] You're licensed to carry a .38 and .357. My cousin mess around, and got mad at his -- his girlfriend -- he was staying with me and shot at her. You know, he didn't -- he just shot my gun so they came over there, and that's how I lost this -- this particular job. Not this federal security guard. I lost the job and everything behind him shooting my gun. The police came to my house.

HAMILTON: Okay.

[redacted] I said, you know, so --

HAMILTON: Let me -- let me -- let me get back on this real quick. You were saying -- going back to the module incident, you were saying that the deputy finally asked you to come off the row, correct?

[redacted] Yes, sir.

HAMILTON: Come up to him? Was he standing at the row gate or was he inthe booth when asked you to step off --

[redacted] He was standing at the row gate. Standing like this here.

HAMILTON: Okay, was the booth door open or closed?

[redacted] It was open. Yeah.

HAMILTON: Are you sure? Or you don't know?

[redacted] Yeah. It was open. I'm sure because -- cause the trusty that was putting up some mops or somethin'. He told the trustee go back to his cell. And there was one trusty there. He told him to go back to the cell. It was open.

HAMILTON: Okay.

[redacted] And so --

HAMILTON: Okay, and then when you came off the row gate, the deputy was standing right there, correct?

[redacted] Yes, sir.

HAMILTON: Okay, where did he direct you to go?

[redacted] He told me come here, asshole. Get up against the wall.

HAMILTON: Okay, what wall was he referring to?

[redacted] This wall was right on the main floor before you go downstairs. You know, when you first open the door. Right there.

HAMILTON: Wait a minute. There's a lot of doors. Let's -- let's --

[redacted] Okay -- okay.

HAMILTON: Let's back up a little bit.

[redacted] Okay.

HAMILTON: Now --

[redacted] I'll show you where it is.

HAMILTON: -- when you coming off the row gate, or when you coming off the row, right? You're facing a deputy, correct?

[redacted] Right.

HAMILTON: He's standing in front looking down the row. You're coming up towards him looking towards the wall which is, I believe -- what is that -- south -- the south wall.

[redacted] Yes, sir.

HAMILTON: Okay, so you're looking at him. He's looking down the row, correct?

[redacted] Right.

HAMILTON: At you?

[redacted] Uh-huh.

HAMILTON: You come off the row, where does he direct you to go? Does he direct you to go --

[redacted]: Right -- before on this side where the A -- where the A.

HAMILTON: Where is this side?

[redacted] On this -- on this side. Okay, you got four -- four rows, right? And you have B, and D, A and C on this side. He had me go over there by them bars on this side. Not in front of the door.

HAMILTON: Understand we're on tape.

[redacted] Yes, sir.

HAMILTON: Did he take you going in front of the other row gate?

[redacted] Yes, sir.

HAMILTON: Or in front of your own?

[redacted] On the own -- I -- on the other gate.

HAMILTON: So that's in front of -- what is that?

[redacted] That's in front of A and C.

HAMILTON: (Unint.) -- yeah, okay.

[redacted] A and C.

HAMILTON: Okay, did he ask you to face the wall or the bars?

[redacted] The wall.

HAMILTON: Okay, which is across from or adjacent to the row gate, correct?

[redacted] Yes, sir.

HAMILTON: All right. So the wall the solid wall.

[redacted] The solid wall.

HAMILTON: He ask you to face it? Did you walk over there?

[redacted] Yeah, I walked over there.

HAMILTON: Was he behind you or in front of you?

[redacted] He was behind me.

HAMILTON: Or on the side of you?

[redacted] He was behind me. Officer -- this officer was behind me.

HAMILTON: Okay, so you walked you over there, and then what happened?

[redacted] Then he pushed me against the wall like that. I think I said wait a minute, sir. Get up against the fuckin' wall.

HAMILTON: Okay.

[redacted] I said what? What you talking about. Well, I heard him handcuff (unint.) -- I just -- I got paranoid.

HAMILTON: Okay, so --

[redacted] And I just sensed somethin' was not right. He made everybody leave, and then I said wait a minute. And then we started -- I said wait a minute, you know. Then he grabbed me like that, you know, and he tried to hit me, and I grabbed him. We -- we was wrestling, just me and this deputy.

HAMILTON: Okay, hold on.

[redacted] Uh-huh.

HAMILTON: Let's just take this a step at a time.

[redacted] Okay.

HAMILTON: Okay, he pushed you against the wall?

[redacted] Uh-huh.

HAMILTON: Correct? Did you turn around?

[redacted] Yes, sir, I did.

HAMILTON: Okay, and then are you saying that he grabbed you?

[redacted] Yes he --

HAMILTON: Or what happened?

[redacted] He grabbed me.

HAMILTON: Where?

[redacted] He grabbed my arm like this here.

HAMILTON: What arm?

[redacted] Like, he grabbed my left arm like he wanted handcuff me.

HAMILTON: But were you -- was he in front of you or behind you at that point?

[redacted] He was in front of me. He grabbed me like this here you know -- you know -- and like he's gonna try to get the cuffs on me. He was -- he grabbed my arm like this here, like he's gonna, you know -- he grabbed my arm, but by this time I said -- I said no -- no, sir.

BELL: He was trying to twist your arm behind your back?

[redacted] Yeah, he was trying to twist my arm, you know. He done this -- I turned like that. I said wait a minute, sir. Then he tried to twist -- I said un-nun. I know what his intention was then.

HAMILTON: Okay, let me -- let me just get a clear understanding of what you're saying.

[redacted] Uh - huh.

HAMILTON: You're saying he pushed up against the wall and that you turned around, correct?

[redacted] Yes, sir.

HAMILTON: To face him?

[redacted] To face him.

HAMILTON: And then he grabbed your left arm?

[redacted] Uh-huh.

HAMILTON: Now, he -- he's trying to twist it behind your back?

[redacted] He grabbed my arm --

HAMILTON: While you're facing him?

[redacted] See, this is what he did. He grabbed my left arm right in front. He

tried to turn my body around and then, you know -- so he could get my arm like this and put the cuffs on.

HAMILTON: But he pushed you?

[redacted] Yeah, he had this left arm, right?

HAMILTON: Right.

[redacted] And then he try turn my wrist here and twist my arm --

HAMILTON: Okay.

[redacted] -- try to -- okay, he got like my shoulder, right and tried -- turn around.

HAMILTON: He tried to turn --

[redacted] -- fuckin' ass --

HAMILTON: -- you back around --

[redacted] Yes, sir.

HAMILTON: -- correct? So you could be facing the wall while he maintained his grip on your left arm, correct?

[redacted] Yes, sir.

HAMILTON: And was trying to bring your hand behind your back?

[redacted] Yes, sir.

HAMILTON: Okay, and then what happened?

[redacted] I didn't let him.

HAMILTON: What does that mean?

[redacted] I turned -- I broke loose from that -- from that -- when he tried to get

my hand like that. I said no, no, no.

HAMILTON: Okay, then --

[redacted] Your not -- your not gonna kill me. That's when we -- I -- I did like that. I pushed his hand, and we start -- and he kept on, and we started wrestling.

HAMILTON: Okay, did he grab you and you grabbed him?

[redacted] He -- he grabbed me and we was --

HAMILTON: Where did he grab you?

[redacted] Okay, we -- once he couldn't -- once this officer could not put my hands behind my back. He see -- he knew -- this officer knew I was not going to let him.

HAMILTON: Right, I understand that.

[redacted] Right, so, at this time I just -- I said no -- no -- no. I said forget -- I said --

HAMILTON: Okay, I understand that.

[redacted] I mean, excuse me, sir.

HAMILTON: What did you do?

[redacted] What did I do?

HAMILTON: Right.

[redacted] I grabbed him.

HAMILTON: Where did you grab him?

[redacted] I grabbed him like this here, and was toughing it.

HAMILTON: Mr. [redacted]

[redacted] Yes, sir.

HAMILTON: We're on tape.

[redacted] Okay, sir.

HAMILTON: Relax, we have nothing but time.

[redacted] Okay.

HAMILTON: Where did you grab or how did you grab 'em? Did you -- your right hand squeeze the right, what?

[redacted] Okay, sir. My right hand -- I grabbed his right arm and his left. I grabbed him like this here cause he --

HAMILTON: Okay.

[redacted] -- (unint.). I grabbed him.

BELL: This -- this here that's where we're getting in trouble.

[redacted] I mean -- I mean. In other words sir I grabbed -- I had -- I grabbed his right hand, right arm and his left arm, right?

BELL: Upper arm?

[redacted] No, this right up in --

BELL: Forearm?

[redacted] Forearm. I grabbed like this here.

HAMILTON: Okay, was he --

[redacted] By the time --

HAMILTON: Go ahead.

[redacted] And -- and this time. Then he turned me around --

HAMILTON: Okay.

[redacted] This officer turned me around, you know, like he was going to throw me on the floor.

BELL: Did he grab you, too?

[redacted] Yeah, he grabbed me.

BELL: So you both clipped at each other forearms?

[redacted] Yeah, we both -- we both -- like me and this officer. We were wrestling. He was trying to get me to turn around. He tried to throw me on the ground, this officer.

HAMILTON: Uh-huh.

[redacted] But he couldn't do it.

HAMILTON: Okay.

[redacted] Until he pushed my against up against -- then he pushed me up to the -- he bumped my head like -- He -- He got his head and butted his head right in my chest and went up against that wall on Baker, on the front of the Baker section, right?

HAMILTON: Okay, let -- let me just back up again. Your saying that you started over there in front of --

[redacted] On the other side.

HAMILTON: -- A and C row --

[redacted] Right there.

HAMILTON: -- and you guys are struggling. And you worked to your way back to over in front of the B gate?

[redacted] B --

HAMILTON: B row?

[redacted] B row. Yes, sir.

HAMILTON: Okay, are you sure that you grabbed his right hand? Was he facing you or away from you?

[redacted] He was facing me.

HAMILTON: So you grabbed his right arm?

[redacted] I grabbed --

HAMILTON: Your right hand --

[redacted] My right -- my right arm --

HAMILTON: (Unint.)

[redacted] -- grabbed him from the right arm, and then -- and then I grabbed his -- with my own left arm because he looked like he was gonna get spray --

HAMILTON: Okay.

[redacted] -- pepper, this officer.

HAMILTON: And --

[redacted] I wasn't gonna let him use nothing.

HAMILTON: And he grabbed the same arms, correct? He grabbed your right --

[redacted] Right.

HAMILTON: (Unint.) right and then -- well, let me --

[redacted] Yes, sir.

HAMILTON: -- just say this. If -- if that happened then that means that you arms would've been in this configuration. Is that what you're saying happened?

[redacted] Yeah.

HAMILTON: Because if he's facing -- is that how you had your arms crossed like that (unint.) this?

[redacted] Uh-huh.

HAMILTON: Versus like this?

[redacted] Yeah, like this here.

HAMILTON: Was leading --

[redacted] Yeah.

HAMILTON: -- right to left?

[redacted] Right.

HAMILTON: Do you understand what I'm saying? If he was facing you, his -- his right would actually be to your left.

[redacted] Uh-huh.

HAMILTON: You understand?

[redacted] Yes, sir.

HAMILTON: If you -- if you -- if I'm -- if you were facing me right now, your right arm would be over here.

[redacted] Yes. Yes, sir.

HAMILTON: Which is my left side.

[redacted] Uh-huh, yes, sir.

HAMILTON: So are you saying you that you crossed your hands and grabbed him this way or did you --

[redacted] No, I didn't cross my hands, sir. I had both of my hands. See, my intentions was not let him get that salt -- have this officer and spraying me. I know his -- what his intention was --

HAMILTON: Okay.

[redacted] -- is try to kill me. I -- I sensed that.

HAMILTON: Okay, but what I'm trying to determine is --

[redacted] Yes, sir.

HAMILTON: -- how did you grab him, and how did he grab you? Is it right on right, or is it right to left?

[redacted] No, we -- okay, it's like -- okay, when I had both his hands. I had my right hand on his right -- on his -- okay, my right hand on his left arm -- forearm and my other right hand in this arm and we -- it was like -- and he grabbed me like this here.

HAMILTON: Okay.

[redacted] He -- and we were more or less just tussling.

HAMILTON: Okay, so what you had his -- you grabbed your right hand --

[redacted] My right.

HAMILTON: -- and grabbed his left hand or forearm --

[redacted] Right.

HAMILTON: -- and your left --

[redacted] Forearm.

HAMILTON: -- he then grabs his right --

[redacted] His -- his right forearm.

HAMILTON: -- forearm and -- and vice versa he did it --

END OF SIDE ONE

SIDE TWO

[redacted] Yes, sir.

HAMILTON: Then what happened?

[redacted] Okay -- okay like I said this officer, he got -- okay, once we was holding on to each other.

HAMILTON: Right.

[redacted] He -- he couldn't throw me down.

HAMILTON: Right.

[redacted] So what he did, he rammed his head -- this officer rammed his head against my stomach, and we hit that bar on Baker row. That's where we started wrestling, and then we -- when he -- as he -- okay, as he -- when he did like that to me --

HAMILTON: Right.

[redacted] -- that's when I was able -- I got -- I got a loose from him and I grabbed him in like a headlock.

HAMILTON: Right.

[redacted] And, sir, I'm not gonna let you hurt me.

HAMILTON: Right.

[redacted] You can not whoop me, sir. Only thing I wanted is my medication. I wanna get back in my cell.

HAMILTON: Okay.

[redacted] I knew what his intention was. So then I let him --

HAMILTON: So you were choking him or were --

[redacted] No, I just got him in a headlock like this here.

HAMILTON: Okay, so he -- he had his back towards your chest? Or was he still facing --

[redacted]: Right, his back.

HAMILTON: Okay.

[redacted] His back towards my chest.

HAMILTON: So you got behind him?

[redacted] Yeah, and then I let him go. Now, see he's still -- when I was grabbing like this here. Sir -- sir -- officer, I don't want to hurt you.

BELL: Okay, you -- you to describe it. You can't say --

[redacted] Okay.

BELL: -- I grabbed him like this here. We can see you --

[redacted] Okay, but --

BELL: -- the tape can't.

[redacted] Okay -- okay -- okay, at this time --

BELL: So you grabbed him like a bear hug?

[redacted] Okay, I grabbed him -- yes -- yes, sir, that's what -- I've had him in a bear hug. His booty was facing my back.

HAMILTON: Okay.

[redacted] And I'm hold him.

BELL: Wait -- wait. You -- you said your back --

[redacted] Okay, I mean not my back (unint.) cause you all gettin' my all confused.

BELL: He butted your chest --

[redacted] His back --

BELL: Go slow. Slow down.

[redacted] Okay, sir. Okay. His booty was facing my stomach. I had him in a bear hug.

BELL: So his back is to your chest?

[redacted] Yes, sir. His back was to my chest.

HAMILTON: All right, and you were behind him?

[redacted] I was behind.

BELL: And you got both of your arms wrapped around his chest and shoulders?

[redacted] Right. I'm holding him in a bear hug.

HAMILTON: Okay.

[redacted] And at this time that's when the other officers came in.

HAMILTON: Okay.

BELL: How many?

[redacted] There was so many, sir, I could not even -- I -- I couldn't really count 'em. It was more than ten. They just came. They -- they -- other officers -- they came in --

BELL: The first -- first time you see other officers, are you saying there's ten

of 'em at least?

[redacted] It was -- sir, it was at least ten or more, sir. I seen 'em -- cause when I let him go that's when they all came in. All the officers came in, and started punching me, and kicking me with their fists and their foot, and I was down on the ground.

HAMILTON: Back up one second this -- we already gone over this, but I just want to make sure --

[redacted] Uh-huh.

HAMILTON: -- you have the deputy in a bear hug. The deputy -- the assisting deputies responded to the module. You said around ten deputies. They grabbed you, correct? Or did they start hitting you?

[redacted] No, cause when I let this officer go out the bear hug, right, officer -- the other officers when they came in --

HAMILTON: Okay.

[redacted] -- they had some gloves on.

HAMILTON: Okay.

[redacted] They will forget. They didn't come in to try to put the handcuffs on me. They didn't come in and try to spray me with that pepper stuff. They came in and beat me.

HAMILTON: Okay, let's stop right there.

[redacted] That's what they did.

BELL: Did they all have gloves on?

[redacted] Uh -huh.

BELL: All of 'em had gloves on?

[redacted] I see -- okay, like when they came in I seen so many of 'em, all I seen was some -- some gloves on.

BELL: We're talking one or two of them or we talking --

[redacted] More than one or two. I would say all of 'em, sir. I'll have to say all of 'em.

BELL: You think all of 'em, but most of 'em anyway had glove on?

[redacted] Yeah, you know, them white surgical gloves? Those white surgical gloves?

BELL: In the blue plastic thing?

[redacted] Yeah.

BELL: Why would anybody want to put those on to beat anybody with?

[redacted] I don't know. I'll put it this way. I so -- guess so no blood, now, can get on them or no marks or somethin' like that. I don't know.

HAMILTON: So, okay --

[redacted] Probably, so no blood or something get on them, you know.

HAMILTON: -- so soon as the assisting deputies came into the module, you released this deputy, correct?

[redacted] Yes. Yes, sir.

HAMILTON: And then what did you do?

[redacted] I couldn't do nothing but cover my face up when they started beating me.

HAMILTON: Okay, and this happened in front of --

[redacted] In front of the cell, on B row.

HAMILTON: Okay, right in front of the --

[redacted] At the fire hose.

HAMILTON: -- the gate?

[redacted] Back right there.

HAMILTON: Is it in front of the gate, or is it against the other wall that's directly across from the B row gate?

[redacted] It's on the B row gate, where the shower is right there.

HAMILTON: Okay, that's where you were?

[redacted] That's where I was.

HAMILTON: Not in front of the gate but just next to the -- the bar?

[redacted] Next -- next to the bars?

HAMILTON: Right next to the --

[redacted] Okay, if you see -- you will a firehouse box, sir, right?

HAMILTON: Okay.

[redacted] A fire hose in -- in Baker row shower, right there.

HAMILTON: Okay.

[redacted] Okay, that's where we was, right there. That's where it stopped, right there.

HAMILTON: Okay, so you let the deputy go and the other deputies came over there and they started punching you, correct?

[redacted] Yes, sir.

HAMILTON: Were they punching you hard or soft or?

[redacted] Off -- sir, these deputies came in there. They tried to kill me.

HAMILTON: Okay, my -- my question is were they --

[redacted] They comin' and punching.

HAMILTON: -- hitting you hard?

[redacted] Oh, yes, sir.

HAMILTON: And where were they hitting you?

[redacted] Hittin' me everywhere. They was -- they -- hittin' me --

HAMILTON: Where --

[redacted] They were hittin' me --

HAMILTON: -- on your body?

[redacted] Okay, they was hittin' me on my body. They was kickin', and I felt one grab my neck like this here, and then that's when he grabbed my head. The officers grabbed my head.

HAMILTON: Okay.

[redacted] And they -- so that's all they were doing, just beating me up.

HAMILTON: Okay, before you fell to the ground -- this -- and they -- they hit you. Where did they hit you? In your upper torso? Your stomach? Your back? Your face? Your arms? Your legs? Where?

BELL: This is when your still standing up.

[redacted] Oh, when I still stand -- when I was standing up?

HAMILTON: Yeah.

BELL: That's what he's asking.

[redacted] I turned around like this here, covered up.

HAMILTON: Okay.

[redacted] I -- I couldn't whip all these officers.

HAMILTON: Okay, but I'm --

[redacted] You know.

HAMILTON: -- asking you, did they hit you?

[redacted] Yeah.

HAMILTON: And if so, where did they hit you while you were still standing up?

[redacted] He was hittin' me all in my head -- all in my head and my body. Mostly all in my head.

HAMILTON: Okay, full force?

[redacted] Full force.

HAMILTON: Okay, and then you said in your body as well, correct?

[redacted] Huh?

HAMILTON: They hit you in your body in as well?

[redacted] They couldn't get me right here cause that's when I went down.

HAMILTON: How about on your back?

[redacted] My back?

HAMILTON: Shoulders?

[redacted] I felt --

HAMILTON: Arms?

[redacted] -- as a matter of from -- from my back they was kicking me.

HAMILTON: Okay.

BELL: When your were standing up?

[redacted] No, when I was down. I went down.

BELL: What about when your were standing up?

[redacted] When I was standing up? No -- no -- no.

BELL: Nobody kicked you --

[redacted] No.

BELL: -- when your were standing up?

[redacted] No -- no. No cause -- nobody kicked me when I was standing up.

HAMILTON: Okay, where did they hit you on your body? You said, some in your face. Did they hit on your shoulders? Your back? While you were standing up. Your arms?

[redacted] Sir, these officers. When they came in here --

HAMILTON: Uh-huh.

[redacted] -- it happened so fast they was hitting, kicking me everywhere. Only thing I did is fell down.

HAMILTON: Okay.

[redacted] And these officers beat me. I fell down on the floor, covering my face up.

HAMILTON: Okay.

[redacted] And they was still beating me.

HAMILTON: Okay.

[redacted] Cause I didn't want them to mess my face up.

HAMILTON: Okay, and you said -- you mentioned that the deputies kicked you --

[redacted] Uh-huh.

HAMILTON: -- initially when they were all on top of you?

[redacted] Uh-huh.

HAMILTON: Where did they kick you?

[redacted] On my back.

HAMILTON: Okay, how many times?

[redacted] I couldn't really count sir.

HAMILTON: Okay, that's fair. I --

[redacted] I -- I -- I didn't know -- I don't know how many times. It's --

HAMILTON: How many --

[redacted] -- just like asking how many times --

BELL: (Unint.)

[redacted] -- they kicked me in my -- in my -- my nut.

BELL: Five to ten times?

[redacted] I couldn't even count. I was gettin' beat up --

BELL: More than five times?

[redacted] It was all of 'em beating me.

BELL: I mean as far as the kicks?

[redacted] As far as the kicks?

BELL: More than five times?

[redacted] Oh, yes. And when he kicked my in my nuts, I can't even count 'em.

HAMILTON: Fine. Okay, when --

[redacted] Cause, my doctor told me -- and another thing too. My doctor told me --

HAMILTON: Hold on.

[redacted] -- my nuts was like a jello. So that tells you.

HAMILTON: You said this before.

[redacted] Okay.

HAMILTON: We understand that. But let's --

[redacted] But -- okay.

HAMILTON: -- just stay on what we're talking about.

[redacted] Just -- just right here.

HAMILTON: How many times do you estimate that you were hit? Punched?

[redacted] Oh, I would say about thirty --

HAMILTON: Okay, and --

[redacted] -- to forty times.

HAMILTON: We're talking about solid, hard punches.

[redacted] Solid blows.

HAMILTON: Okay.

BELL: How about kicks?

[redacted] Kicks? Sir, I couldn't even count the kicks? Only -- only kicks I can

really -- really count --

BELL: Fifty times?

[redacted] I would say --

BELL: Five times?

[redacted] Oh, okay, like kicks -- okay, when -- okay, I'll have to say like --

BELL: Before you go down --

[redacted] -- about ten.

BELL: Before you go down.

[redacted] Before I went down? I'd say about ten or fifteen times. Because --

BELL: Where did they kick you? In your back?

[redacted] In my back -- in my back.

BELL: This is before you go down?

[redacted] Uh-huh, before I went down. He was kicking me.

BELL: How can they stomp on you --

[redacted] I felt --

BELL: (Unint.)

[redacted] I went down on the ground like this here.

BELL: He had to be had to be a tall dude.

[redacted] No, I went down sir.

BELL: Okay, I'm talking about before you go down.

[redacted] Before I went down?

BELL: Yeah.

[redacted] Oh, no I mean --

BELL: You said somebody kicked you on your back.

[redacted] Yeah, one of them kick me. I felt one kick, and then -- then -- and -- and it was so many punches, I mean, just beating and beating me I fell down. I can't exactly tell how many kicks.

HAMILTON: Okay, all right.

[redacted] Sir -- I mean, it was a nightmare.

HAMILTON: Okay.

[redacted] And I still have dreams about that. I -- I can't say how many times. Only thing I can remember is when they -- when I fell down, they were still beating me. I just went down on the floor --

HAMILTON: Okay.

[redacted] -- to cover my face.

HAMILTON: Okay.

[redacted] And he was beating my head, and then I remembered this officers -- officers said -- grabbed me by my braids -- I had on braids that night, which the doctor verified that. I had on braids, and he grabbed me and said one, two, three. When he said one, two, three, is like we're gonna bust head on the floor.

HAMILTON: Okay.

[redacted] And that's when they grabbed me. And I felt one -- it -- it had to be about three of 'em. I felt like my forehand like this here, right, holding my braids, and one had my neck. You know, like they was trying to just -- just choke me to death. And this -- I felt

'em -- they said one, two, three. On the count of three -- these officers -- and they had my head and they banged my head on the floor. Bang, you know, three times.

HAMILTON: Okay.

[redacted] And then they did it again.

HAMILTON: Okay.

[redacted] Three more times. Real, real hard.

HAMILTON: Okay.

[redacted] They got my head and -- and -- and got my head and on a concrete, and just hit my head three times. Right on his left (unint.).

HAMILTON: Let my ask you something. Where were your injuries? What did the doctors tell you your injuries were?

[redacted] My injuries? My -- this left eye, they had to put nine stitches in my left eye.

HAMILTON: Okay.

[redacted] And they sewed it up.

HAMILTON: Okay, and that was from the beating on the head.

[redacted] That was from --

HAMILTON: Slamming your head.

[redacted] That's from 'em --

HAMILTON: Okay.

[redacted] That's from the officers slamming my head on the concrete floor.

HAMILTON: Okay, what else?

[redacted] And my balls.

HAMILTON: Okay.

[redacted] I mean tec -- tec --

HAMILTON: That's -- that's all right.

[redacted] Testicles.

HAMILTON: You can says balls (unint.) we all understand.

[redacted] I laugh about it. They call me one nut. Anyway, sir.

HAMILTON: Yeah. Okay, and what else?

[redacted] And that's it.

HAMILTON: Okay.

[redacted] It's like --

HAMILTON: Was there any other scratches on your face? On your body? Your arms, legs, anything?

[redacted] Yes, sir.

HAMILTON: Okay, well, tell me about it?

[redacted] Scratch on my left -- on my nose right here.

HAMILTON: Minor or major?

[redacted] Oh, minor scratch. What they just --

HAMILTON: Okay.

[redacted] -- tried to grab me and --

HAMILTON: What -- what else?

BELL: From a fingernail or something?

[redacted] Fingernail.

HAMILTON: Okay.

[redacted] Fingernail. And then my throat --

HAMILTON: Okay, so you had minor lacerations --

[redacted] Yeah.

HAMILTON: -- or scratches on your --

[redacted] Yeah, that's correct.

HAMILTON: -- face and your neck?

[redacted] That's correct.

HAMILTON: How about your -- your chest? Your stomach? Your legs? Your thighs? Your back?

[redacted] None.

HAMILTON: Okay, so you're saying that none, correct?

[redacted] None, on my legs and chest. No.

HAMILTON: Okay, and if -- and if you did have some they were just minor in nature. They were very minor. You never -- you didn't have to have sutures or surgery other than your testicle, correct?

[redacted] Yes, sir.

HAMILTON: Okay, nothing? Your back? Did you have any pain anywhere? Your neck? Your arms? Your finger? Anything?

[redacted] My back. I have pains in my back.

HAMILTON: From what?

[redacted] From when I went down -- and when I went down they -- they was beating me. Sir, like I said they kicked me and they were -- I have one mark back here, and it like they were trying to break me -- it's like the officers were trying to break me all to pieces and --

HAMILTON: That -- that one on your though, that was a -- a minor injury, correct?

[redacted] Yes, minor, sir.

HAMILTON: Just a scrape cause I photo of that.

[redacted] Yeah, that's a minor.

HAMILTON: Okay, and was -- in -- in that affect wasn't that a -- it appeared --

[redacted] That was a kick. That was like somebody --

HAMILTON: It was very small, correct?

[redacted] Yeah.

HAMILTON: Very -- how big would say that -- that injury was on to your back?

[redacted] I'll have to say -- what -- meaning by what about two or three inches, something like that. I cause I felt somebody did like that. (Unint.).

BELL: You don't have the bruising to your back?

[redacted] Huh?

BELL: Any other bruising to your back?

[redacted] Not that I know of. I can't see.

BELL: Did anybody examine your back?

[redacted] No, they took pictures?

BELL: Who took pictures?

[redacted] Internal Affair.

HAMILTON: We're talking about at -- at the hospital, though.

[redacted] At the hospital?

HAMILTON: They examined you --

[redacted] Right.

HAMILTON: -- from top to bottom. They didn't just --

[redacted] They didn't get --

HAMILTON: -- look at your face.

[redacted] Yeah.

HAMILTON: I'm talking about the LCMC and UCLA Medical Center as you referred to it is USC, I believe.

[redacted] USC. Yes, sir.

BELL: Okay, you go down to protect yourself?

[redacted] Yes, sir.

BELL: How many times are you kicked in the back then?

[redacted] Sir, to tell the honest God's truth. I know I got kicked once back there. I -- I couldn't even count. Only thing I was doing, sir, is just -- I couldn't count how many times because --

BELL: At least a dozen?

[redacted] Yeah.

BELL: We're talking twelve?

[redacted] I couldn't tell you exact, sir?

BELL: We're talking two?

[redacted] Maybe -- maybe -- maybe about --

BELL: Where talking thirty?

[redacted] I -- I say -- see it was mostly beat and kick, but, you know, and --

BELL: Well, that's what I'm asking how many times where you kicked? Did it feel like you were kicked --

[redacted] I -- I say about --

BELL: -- by a shoe or boot?

[redacted] -- maybe about twelve times. About twelve -- about twelve --

BELL: About twelve times?

[redacted] -- a dozen or -- a dozen or something.

BELL: Give or take three or four or six?

[redacted] Yeah, it was more than that. I felt 'em kick me up like by my ribs too?

BELL: Okay, so I'm saying this is gonna be six and eighteen times you were kicked?

[redacted] I don't think it -- yes. I mean, all together. Plus when -- when he kicked in my left --

BELL: Okay.

[redacted] In my testicle.

BELL: Okay, I'm not -- I'm not talking about your testicle.

[redacted] Okay, just on my back?

BELL: I'm talking about in your back or wherever you were kicked?

[redacted] Okay, I'll have to say --

BELL: This is prior being handcuffed.

[redacted] Right. I would have to say -- oh, yeah. Okay, when I had -- I had my hands on the -- the bars, right. I was holding on.

BELL: Uh-huh.

[redacted] I forgot to mention that. He was pulling my hand and they start kicking this hand. Bam -- bam -- bam -- and this one too. So they can get my hands. The officers -- they -- I had my hands on the bars, holding on, and then I was lying down face, and I -- then -- and one of 'em, two of 'em was kicking his hand to get my arms to release that bar. That's when they got my hands, like they was trying to break it, and took my hands back. I forgot to mention that. And --

BELL: You're being kicked elsewhere besides your hands? At the same time?

[redacted] Uh-huh. A whole lot of times.

BELL: How many? Oh, how many is a whole lot?

[redacted] I would say -- sir, it was so many punches. I want to say maybe about with fist -- mostly fists. I would say kicks, about twelve. But the most of the kicks is when they --

BELL: How -- how many -- how many --

[redacted] My back and stuff?

BELL: How many times did they hit with their fists? Your back? Your head? Wherever?

[redacted] Oh, they hit me with my -- with their fists. I would say over twenty times cause he just pounding it. With -- just bam hit my on my head. It felt like --

BELL: They're hitting you in the back of the head with their fists?

[redacted] They was hittin' me on my head -- the was hittin' all in my head. Just bam -- bam -- they was trying to break my jaw, and one of 'em grabbed me like this here trying to -- then one of those officers is -- is -- if though they were trying to turn my head, sir, around so he can hit me in my eye because I know an inmate got beat like that. So I was basically, more or less, trying to protect my body --

BELL: Okay.

[redacted] -- to keep from gettin' too bad -- from beaten up too bad.

BELL: Finally they get your -- your hands from around the bars and they --

[redacted] After they just stomped my hands. That's when they get my --

BELL: Okay, they stomp your hands and they get your hands behind your back --

[redacted] Uh-huh.

BELL: And they handcuff you?

[redacted] Right.

BELL: What happens then?

[redacted] After that? I felt -- I'd say about two -- about -- I'd say about two arms. I felt two arms -- I felt two arms on each --

BELL: You mean two hands?

[redacted] -- legs. Two hands -- two hands on each of my foot. These officers

opened my legs real wide and I just felt a whole lot of kicking. Just kicking me and just kicking me. I mean those -- that was over twenty times. I can't count to be exact, but it's so many I passed out. Then they handcuffed my ankles.

BELL: How many did you feel before you passed out?

[redacted] Before I passed out? Over ten.

BELL: Over ten?

[redacted] Over -- over ten. Way over ten or fifteen kicks. It was --

BELL: Ten or fifteen?

[redacted] I'd say between ten and fifteen kicks.

BELL: And then you pass out?

[redacted] And then -- and then I pass out. I wasn't really out. I just act like I was dead. I'm too --

BELL: You're not really out?

[redacted] I wasn't knocked out, no. I was just hurt. I just laid in my blood like this.

BELL: Okay, passed out to me means you're out.

[redacted] Yeah.

BELL: So when your -- when your --

[redacted] Well, I wasn't -- I wasn't passed out.

BELL: -- not passed.

[redacted] I wasn't passed out. I pretended like I was passed out.

BELL: So you pretended you were passed out?

[redacted] I was knocked out, yes. So --

BELL: So you can still feel them kicking you?

[redacted] Uh-huh.

BELL: How many times do they kick you?

[redacted] After that?

BELL: (Unint.)

[redacted] How -- how many times after -- after?

BELL: After -- after --

[redacted] After that -- after I'm, okay, after --

BELL: After you're handcuffed.

[redacted] Right.

BELL: How times were you kicked in the testicles?

[redacted] Two times, to be exact and --

BELL: Two?

[redacted] Two times. Two to three times. Cause one I overheard -- I heard one officer say that's enough.

BELL: Okay.

[redacted] I heard one officer say that's enough.

BELL: You said -- you told some -- told them people from I.A.B. --

[redacted] Yeah, cause --

BELL: -- seven to fifteen times you were kicked in the testicles?

[redacted] Uh-huh. Sir, to be exact. Sir, I can't count. It was more than --

more than that I felt the hands.

BELL: Well, you just told me two or three?

[redacted] Okay, the last -- no, sir. After they -- okay, after they kicked me multiple -- after the officers kicked me, right, I felt a hand grab my balls, and I felt two more kicks, and he wanted to kick some more, but I heard (unint.) -- no, like I said, sir, I was -- I was lying down in the blood like -- like I was dead. I heard one officer say that's enough.

BELL: Okay, after you're handcuffed --

[redacted] Uh-huh.

BELL: -- you feel two hands on each one of your ankles or your feet?

[redacted] Uh-huh.

BELL: They pull your legs apart?

[redacted] Yes.

BELL: Okay, how many times total are you kicked in the testicles?

[redacted] I can't tell. There's more -- I know it's more than fifteen times.

BELL: More than fifteen?

[redacted] Sir, it was more than fifteen times, sir. It was kicked a whole lot of times.

BELL: So it's not two or three?

[redacted] No, not this --

BELL: It's more than fifteen?

[redacted] See, after they -- after this officer -- one -- one of 'em grabbed my balls --

BELL: Uh-huh.

[redacted] -- sir, to smash 'em up, then I felt two more kicks, two kicks --

BELL: Uh-huh.

[redacted] -- and I heard one deputy one say, that is enough.

BELL: Okay, but they --

[redacted] One guy, you know.

BELL: But they -- somebody still kicks you? Even though somebody says --

[redacted] No, that -- that was the last one. And then they handcuffed my feet, cause he -- he would of -- he -- he probably wanted to kick -- he -- I believe this officer intention was to kick both of 'em, but I heard one officer -- like I said I was laying down -- said -- told this officer, that's enough, we got him, that's enough. But I did not see what officer did this.

BELL: That's enough, we got him?

[redacted] Yeah, that's enough. He told 'em, I guess his buddy, that's enough. In -- in other words, this officer told this one that was kicking me two more times, after they did my balls -- smashed 'em up -- kicked 'em, and he -- and he wanted to kick me some more, and I heard this officer say, that's enough, we got him.

HAMILTON: Okay, and then what happened once --

[redacted] And that was it. That's when they put them --

HAMILTON: -- once the deputy finished kicking you?

[redacted] Then the put them handcuffs on. On -- on my foot.

HAMILTON: (Unint.)

[redacted] I was hogged tied. The officers -- the officers -- once they had me hogged tied like this, my handcuff on my arm, and the officers handcuffed my feet, and you can see me picture where the handcuffs were on, right there, and then that's when I seen this -- a senior with two stripes and a sergeant.

HAMILTON: How long did it take you to -- how long where you in pain by these kicks?

[redacted] Sir, I was in pain the whole time 'til I got to the hospital.

HAMILTON: Okay, when you say -- what were you doing. I'm mean, were you screaming?

[redacted] In -- in pain?

HAMILTON: Were you --

[redacted] Sir, yeah, I was hollering. I was in so much pain. I was hollering.

HAMILTON: How long do -- were you hollering?

[redacted] Sir, I couldn't holler too much. How long, sir? I -- I hollered 'til -- 'til I couldn't holler no more. I just -- just tightened up my muscles, and I just -- just like took the pain. And then --

HAMILTON: I mean, did you holler until you got to U.S.C. Medical Center?

[redacted] No.

HAMILTON: Did you holler --

[redacted] No, I hollered inside where they -- where they beat me at, and I stopped hollering. I was just saying -- I was just -- I was just telling -- the senior, please get me to the hospital, please, sir.

HAMILTON: Okay, so how long would you estimate that you experienced this discomfort?

[redacted] I experience that all the way until surgery.

HAMILTON: Okay.

[redacted] All the way until surgery. I was hurting so bad. They had to give me a shot every two hours.

HAMILTON: Okay, (unint.).

BELL: A shot of what?

[redacted] Oh, okay. When he examined my -- before I went to the x-ray, he -- he shot some Novocaine in my balls cause he was just feeling 'em, the -- the surgeon. I said doc, no. I told the doctor. I said doctor don't, it hurts. It's killing me. I have to shoot something in there. So he got a needle and shot in the ball so he can examine with his hand. He tell me it's not gonna hurt. I said, well, I said it's killing me, and then once he shot that -- that Novocaine, you know, for your teeth, he shot that in my balls, I didn't feel no pain. That's why I went to the x-ray room, and that's when he examined with little -- this x-ray technician examining. I was looking -- I didn't feel nothing cause he -- they had shot that Novocaine. But after that Novocaine -- well, that stuff -- I guess that's what they call it.

HAMILTON: Right.

[redacted] When they take your teeth out. When that went down, it was killing me. I said, do you have anything for pain. Every two hours, I had to have Codeine.

HAMILTON: Did it hurt you to -- to move?

[redacted] I couldn't even move.

HAMILTON: Did it hurt you to talk? Did you -- did it -- I don't know.

[redacted] It hurt -- it hurt me to -- to even talk.

HAMILTON: Okay, but you --

[redacted] It was killing me.

HAMILTON: Okay.

[redacted] I told the doctor whatever you got, give me the strongest medication. They had to shoot me with a needle.

BELL: Did it hurt you -- hurt you to talk but you're screaming?

[redacted] Well, when I was screaming, I was hurting then. I said oh -- oh, stop please, Lord, Jesus. I was hurting. I was hollering. I was hurting. Them kicks and afterward. And then -- plus, then they handcuffed my feet and it makes my legs go close to the ball.

HAMILTON: Right.

[redacted] I mean my -- my testicle. And officer --

HAMILTON: So it hurt the whole time that you were hogged tied?

[redacted] -- and -- yes, I was hurting. I was dying.

HAMILTON: Did you tell that to anyone?

[redacted] Yeah, I told 'em.

HAMILTON: Who did you tell?

[redacted] I told the nurse. You don't have anything? I'm hurting real bad.

HAMILTON: Where did you tell 'em you were hurting?

[redacted] This -- this was at the Central Jail clinic.

HAMILTON: Right, where did you tell 'em that you were hurting. What part of

your body?

[redacted] I told 'em I was hurting. I said from stomach, man, down there. They didn't do nothing, but just put me in an ambulance.

HAMILTON: Okay.

[redacted] And send me to the U.C.L.A. Hospital. I mean the -- the nurse and deputies. There was two of 'em in the ambulance, and he kept saying, [redacted] when you was in the cell, the fifth one got you, huh -- huh? The fifth one got you, huh?

HAMILTON: Okay, but let's go back --

[redacted] And --

HAMILTON: -- to the clinic.

[redacted] Clinic?

HAMILTON: Let's go back to the clinic. You were saying that you told some medical personnel or the deputies down there with you?

[redacted] The nurse.

HAMILTON: That you told her that your stomach was hurting or your testicles were hurting?

[redacted] Yeah, I told -- I told her I'm hurting -- I'm hurting. I just told 'em I was hurting. I said, do you have anything for pain? I'm hurting. I said please.

HAMILTON: Did you specify where you were hurting?

[redacted] Nope.

HAMILTON: You never told 'em your stomach or -

[redacted] No, I said I'm hurting. I told this nurse I'm hurting real bad, do you

have anything for pain? And I said please.

HAMILTON: Okay, what nurse was that?

[redacted] Oh, I didn't even -- it was a Chinese nurse.

HAMILTON: Male or female?

[redacted] Male -- female.

HAMILTON: What she look like?

[redacted] This female nurse.

HAMILTON: Brown hair, black hair, blonde hair?

[redacted] She's -- black hair. I'll know her when I see her.

HAMILTON: How tall?

[redacted] I would say about 5 feet 2.

HAMILTON: Okay.

[redacted] Little Chinese nurse.

HAMILTON: Female, Chinese --

[redacted] Female.

HAMILTON: -- or Oriental?

[redacted] Female. She's Oriental.

HAMILTON: Do you know Chinese from Japanese?

[redacted] Well, she was Oriental. I don't know the difference between 'em.

BELL: Okay.

[redacted] She was Chinese -- Japanese.

HAMILTON: Wearing glasses or not.

[redacted] No, she didn't wear no glasses. Real short little nurse.

HAMILTON: So you told her that you were in pain?

[redacted] I just told her I'm hurting.

HAMILTON: You didn't specify?

[redacted] No, I said I'm hurting. She said, well, you -- she said, oh, Mr. [redacted] you're going to the hospital. You'll be all right.

HAMILTON: Okay.

[redacted] Only they did at that clinic is rinsed that -- all -- all the blood off my face.

HAMILTON: Did --

[redacted] And he took a picture.

HAMILTON: Did you tell the doctor --

[redacted] No.

HAMILTON: -- that you were experiencing pain?

[redacted] Yes, I did.

HAMILTON: What did you tell him?

[redacted] I told him my nuts. And then --

HAMILTON: The doctor here? You told him?

[redacted] No, not -- not here.

HAMILTON: Okay.

[redacted] At General -- at General Hospital. Well, it used to be General Hospital. It used to be General Hospital, now, it's U.C.L.A. Hospital.

HAMILTON: Okay.

[redacted] I told that to the surgeon.

HAMILTON: How about the doctor here?

[redacted] No.

HAMILTON: You didn't tell 'em that you were experiencing any discomfort?

[redacted] They only said -- the only thing they did was this nurse --

HAMILTON: Uh-huh.

[redacted] I even had -- I was still hogged tied.

HAMILTON: Right.

[redacted] With the cuffs on me and everything. Cause it's killing me from my legs touched my left -- my left testicle. Only thing she did is pour water on me. She said your going to the hospital --

HAMILTON: Okay.

[redacted] -- Mr. [redacted] You'll be all right. You're going to the hospital.

HAMILTON: Okay.

[redacted] And that's all they did.

HAMILTON: Okay, did they ever move you around --

[redacted] But I mean, you know the nurse --

HAMILTON: -- in a gurney while you were down here at the clinic? Did they ever move you?

[redacted] Around?

HAMILTON: Yeah, or did they just keep you at your side and they asked you to

turn over? Did they ask -- did they help you move over? Did they do any of that?

[redacted] No. They didn't do nothing.

HAMILTON: You -- I'm -- I'm talking about deputies or anyone?

[redacted] The nurses?

HAMILTON: Did they ever move you around on the gurney once you were on it?

[redacted] No.

HAMILTON: Okay, they didn't tell you to move around so they could take pictures of you or anything like that?

[redacted] No, they took pictures. They took a picture of me when I was on that, you know, that cart?

HAMILTON: The gurney.

[redacted] The gurney thing. Yeah, took a picture of me and all that blood.

HAMILTON: Okay.

[redacted] And that's all.

HAMILTON: You were saying -- you were saying because legs were hobbled, and they were closed, that created some pain?

[redacted] Yeah, it was killing me.

HAMILTON: Was it excruciating?

[redacted] I even, you know, it was --

HAMILTON: Or was it --

[redacted] It was so much pain, sir. I wanted to die.

HAMILTON: Were you able to talk?

[redacted] No, I wouldn't. No, it was killing me.

HAMILTON: Okay, but where you --

[redacted] I -- I mean if I say something, you know, and just -- I was having so much pain.

HAMILTON: Right. Have you ever been -- let me ask you something? This may sound silly.

[redacted] Uh-huh.

HAMILTON: Have you ever been kicked in the groin?

[redacted] Oh, yes.

HAMILTON: Okay.

[redacted] I've been kicked --

HAMILTON: Were you able --

[redacted] I've been kicked in the groin a lot of times. By my girlfriend --

HAMILTON: Really?

[redacted] -- and I be playing with her.

HAMILTON: Yeah.

[redacted] I've kick you like this here, or grab you or -- or -- or like sometimes me and my wife we plays --

HAMILTON: Right.

[redacted] -- in the bed and she grab my -- I said girl don't be grabbing right there.

HAMILTON: Right, did that hurt?

[redacted] Now, I got kicked -- oh, yeah, it hurt. I mean, but this is three -- twenty times more pain.

HAMILTON: Were you --

[redacted] And then they -- they took the cuffs off my legs --

HAMILTON: Right.

[redacted] -- there and then they took me to --

HAMILTON: Where?

[redacted] In right there -- in this little clinic, Central --

HAMILTON: Okay.

[redacted] -- before I went to the Hospital.

HAMILTON: Okay, did that hurt?

[redacted] Killing me.

HAMILTON: Did you yell? Did you --

[redacted] I just gritted my teeth. I told them to hurry up. They said you going to the hospital, you'll be all right. I said I'm hurting bad, please. Give some water -- give me some water.

HAMILTON: Let -- let me ask you something. Once again this may sound silly. How -- how are you able to control that pain -- that excruciating pain?

[redacted] How was I able to control it?

HAMILTON: Yeah, or were you?

[redacted] I -- I tried to keep my mind off it. I just -- just tightened up my muscles and my teeth and just kept on taking the pain.

HAMILTON: Okay, what a guy.

[redacted] I just -- just -- I just took it.

HAMILTON: Right.

[redacted] I couldn't do anything about it, but just -- I just didn't move.

HAMILTON: Okay.

[redacted] When they try to move me, I said don't move me. When I was in the ambulance I said please, sir, don't move me.

HAMILTON: Did you talk to the ambulance driver attendant? Did you tell them what happened?

[redacted] No.

HAMILTON: How about the deputies? (Unint.)

[redacted] Cause the deputy was in there.

HAMILTON: That's right.

[redacted] There were two of 'em.

HAMILTON: Did you talk to them about it? You were all ready en route to the hospital so they couldn't --

[redacted] No.

HAMILTON: -- of changed of it?

[redacted] No.

HAMILTON: Okay, so you have that much presence -- present of mind to -- to come up with this plan and deceiving basically the deputies and the medical staff here so you can get to the hospital?

[redacted] That's all I wanted to do?

HAMILTON: You have that much control after --

[redacted] Uh-huh.

HAMILTON: -- experiencing what you were experiencing?

[redacted] Uh-huh.

HAMILTON: Okay.

[redacted] Cause, as a matter of fact, the two that was in the ambulance -- one of 'em --

HAMILTON: Uh-huh.

[redacted] -- I know him, like I said. I -- I used to all ways talk to him and --

HAMILTON: Okay.

[redacted] But he wasn't involved in that.

HAMILTON: Right.

[redacted] And he -- he said [redacted] were you hurt? Where at? I just, said I'm just hurting. I didn't want to tell him --

HAMILTON: Okay.

[redacted]: -- and they didn't even know. I didn't want to tell no officer nothing. The only thing I was thinking about is to get to the hospital --

HAMILTON: Okay.

[redacted] -- and I told the doctor cause he asked me.

HAMILTON: Okay.

[redacted] Said who kicked you?

HAMILTON: Okay.

[redacted] I said the sheriff, you know.

HAMILTON: Okay.

[redacted] I told the doctor, I'm gonna tell the honest God truth.

BELL: This is the emergency room?

[redacted] This -- this is right there were emergency room where he -- when he tried to examine my nuts. I said, doc, please. He tried to open my legs, it was hurting -- it was killing me. I said, doctor, do you have any kind of pain. They wanted to shoot me up withsome Morphine or something cause I -- cause my mother -- she died of [redacted]. I could just imagine and I was -- killing me. I said, doc, you know something, I don't even want you to do nothin'. Just let me die. He said, no, I have to save your life. I said, why, so you can send me back there, so they could kill me and beat me some more? He said, no, I got to save you?

HAMILTON: Let -- let me go on here.

[redacted] You know, I was hurting that bad. I didn't want to live.

HAMILTON: Okay, let me move on.

[redacted] It was killing me.

HAMILTON: You -- you had mentioned that there was a trusty. Where there one trusty? Were there numerous trustys that saw what was going on, or was there any trustys that saw what was going on?

[redacted] There was only one trusty. He -- he actually didn't see because the deputy told him before this even happened --

HAMILTON: All right.

[redacted] -- go to your cell.

HAMILTON: Okay, did he tell him before you came off the row or after?

[redacted] As soon I was got up there --

HAMILTON: Yeah.

[redacted] -- he told the trusty, go to your cell.

HAMILTON: So that's actually before you walked in the -- before you came off the row?

[redacted] Yeah, when I went up to the row, right there --

HAMILTON: Okay.

[redacted] -- before he pushed me up against the wall?

HAMILTON: Okay.

[redacted] He told the trusty, go to your house.

HAMILTON: Where did the trusty go? Where was he housed?

[redacted] I don't know what house.

HAMILTON: Do you know which row?

[redacted] This was on A. This was on A side.

HAMILTON: So that's up -- the upper --

[redacted] Uh-huh.

HAMILTON: -- row to the left as you walk into the laundry? A --

[redacted] He can see. He can see. He see -- he --

HAMILTON: Okay.

[redacted] He seened it.

HAMILTON: Okay.

[redacted] Cause see they be looking at T.V. up there.

HAMILTON: Okay.

[redacted] I know one that seen. I know of the trustys.

HAMILTON: Okay, hold on.

[redacted] Okay.

HAMILTON: What did the trusty look like?

[redacted] It was a Mexican trusty. He's fat.

HAMILTON: Okay.

[redacted] Big, hefty, fat, Mexican, and the other trusty --

HAMILTON: Tall?

[redacted] Yeah, tall.

HAMILTON: How tall is he?

[redacted] I would say about 6'1.

HAMILTON: Okay.

[redacted] Tall, big --

HAMILTON: You know his name?

[redacted] No.

HAMILTON: Did he have a mustache? Color hair?

[redacted] He had a mustache, but, you know, this is Spanish trusty.

HAMILTON: So he sent him -- how -- how do you first all -- how do you know he's a trusty?

[redacted] Because they wear the orange -- see the trustees have the orange shirt -
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HAMILTON: Uh-huh.

[redacted] -- and blue pants, and then they have -- they have there little card hanging from their -- their pants.

HAMILTON: Okay, so he sent them down to row prior to you actually getting involved in this altercation with the deputies?

[redacted] Uh-huh.

HAMILTON: So you don't know if he saw it or not? Your assuming?

[redacted] I don't know if he saw it or not.

HAMILTON: Okay, anybody else that was out there? Maybe on the phone? In the storage room? Anybody walking in? Any -- did you notice anyone else?

[redacted] Nobody.

BELL: You said -- I thought you just started to say that another -- you know of a trusty --

[redacted]: I know a person that know who -- that know -- know who did it, but he's not gonna testify cause I ask him try to, you know --

HAMILTON: Knows who did it?

BELL: He knows or --

[redacted] He knows.

BELL: -- he saw?

[redacted] He saw. He was up there. Matter fact in the day -- day room, he

came down there, he seen me, but I asked him will you -- cause private investigator came and seen me. He said -- ask me for a witness. I got several witness that heard and seen the incident. I asked him to be one of my witnesses. He said no.

HAMILTON: What's his name?

BELL: What's his name?

[redacted] Well, he from -- he's -- he's -- he's a Crip.

HAMILTON: And --

[redacted] Sir, I don't even know his name.

HAMILTON: What did he look like?

[redacted] Bald head, sort of stalky, little short neck, real big.

HAMILTON: He a brother?

[redacted] A brother, yeah.

HAMILTON: Okay, what -- what cell is he in? Or was he in?

[redacted] He's not here no more.

HAMILTON: That's okay. That's not what I'm asking you. What cell was he in?

[redacted] What cell? I don't know cause I think the trustys be on -- on the side. They -- I think they be on A or either C.

HAMILTON: So is it -- do you what he was in jail for?

[redacted] No.

HAMILTON: Do you know what he looks like?

[redacted] Uh-huh.

HAMILTON: What did he look like?

[redacted] Bald head, with a short neck like this.

HAMILTON: Uh-huh.

[redacted] Big, short and stalky.

BELL: What did -- what did they call him?

[redacted] Six-Dence East Coast Crip.

HAMILTON: That's what they call him? No, what did they call him? Not where he's from.

[redacted] I never of -- heard them call him, this one, a particular name. They just say trusty or homeboy, but he's from -- he's from East Coast Crip. That's all I know about this guy. This guy -- he -- see this guy he's fun. He's fun and stuff. See, the guys, you know, if they don't speak to me, I don't speak to them.

HAMILTON: Is he dark complected, light complexed?

[redacted] No, he's your complexion. And I ask him, man, you seen it. He said I know. Well, I -- I'm gonna -- I ain't gonna testify.

HAMILTON: Did he go to the pen?

[redacted] Yeah, I think he's in the pen now. I haven't seen him. He got his time went to the pen. I don't even like him. Cause he funny. He's -- he have funny ways. I don't -- me and my celly --

HAMILTON: Jail will do that to you.

[redacted] Especially he's a trusty, you know. He thinks he's better than everybody else, you know. So, I'm type the person like I said, I don't socialize with nobody that don't like me or if I figure I can't along with. I don't socialize with 'em period. I be

around old mens. (Unint.), I don't get along -- I mean, I can get along with these gang bangers, but I don't have nothin' in common with these guys. See, because they know --

HAMILTON: Okay.

[redacted] -- if it come down to a fight I'm not help these --

HAMILTON: Okay.

[redacted] -- these -- these gang bangers, Blood or Crip, fight each, other, you know.

HAMILTON: Okay, Mr. [redacted] let me -- let me get back to this cause it's -- kinda this tape is coming to an end. Did you -- when was the first time you talked to [redacted] or any of your cellmates or anybody in that module after the incident? When was the very first time?

[redacted] I didn't talk to anybody that -- I -- I talk -- the only person I talked to is -- is my witness. The guys that I wrote down. Cause my private investigator, he says that I need --

HAMILTON: Okay, let me -- this -- answer -- answer my question.

[redacted] Okay.

HAMILTON: When was the first time that you talked to anybody that was in that module after the incident? When was the very first time?

[redacted] Oh, the first time it was with the trusty.

HAMILTON: Which trusty? The guy you just talked about?

[redacted] The same one. Yeah him.

HAMILTON: When was that?

[redacted] That was after I got out the hole. They put me in the hole. I don't know why? That was after I got out the hole and then they sent me back to 4400.

HAMILTON: So when you came back from LCMC, you -- you returned to the hole?

[redacted] Yes, they had to put me in the hole.

HAMILTON: Okay, and you talked to an inmate? When did that occur?

[redacted] Okay, I was in the hole for three days. Oh, lets see. No -- about November the 6th, I believe it was.

HAMILTON: Okay.

[redacted] I can't recall -- I cannot recall the exact date.

HAMILTON: When did you talk to [redacted], your --

[redacted] [redacted], oh --

HAMILTON: -- ex-cellmate may have witnessed the (unint.) --

[redacted] Oh, I didn't see him. I seened him one time.

HAMILTON: When was that?

[redacted] He's was coming from chow.

HAMILTON: Okay.

[redacted] And he said [redacted]. I said, hey, what's up [redacted]? (Unint.) --

HAMILTON: Did you guys chit chat?

[redacted] We didn't get a chance to cause he's in a different module. He was just going -- he was leaving from chow. I was going to chow from 4400.

HAMILTON: Okay.

[redacted] He's in another module somewhere.

HAMILTON: Okay.

[redacted] I don't know where he -- but he's still -- he's still here.

HAMILTON: Okay.

[redacted] But they just -- all my celly's that was there when this incident occurred. They moved them all.

HAMILTON: Okay.

[redacted] In Baker 4.

HAMILTON: Okay, is there any other witnesses that you know of that saw -- that saw the incident? Not heard about it, that saw it?

[redacted] Oh, yeah. A whole -- the whole row.

HAMILTON: Well --

[redacted] Oh, yeah. I -- I -- I get about six more. I get about ten more right now.

HAMILTON: Okay.

[redacted] Cause they told me, man, we thought you was dead.

HAMILTON: How can you -- I -- I've been on that row. I used to work here, and how can you see from those cells what -- what was going on up --

[redacted] Cause --

HAMILTON: -- up --

[redacted] I'll tell what, sir. Okay, when you in the cell, all you do is (unint.) with a bar code, he looked just like that.

HAMILTON: Okay.

[redacted] And you can see exactly. You can see the mail box. You can see everything.

HAMILTON: So give me some names who saw what happened?

[redacted] Oh, what names -- see they left my property over there too, and I got the names over there.

HAMILTON: Over where?

[redacted] At Long Beach, over there.

HAMILTON: Your property stays with you. So if your property --

[redacted] Well, I had -- I had a seizure.

HAMILTON: Uh-huh.

[redacted] So when I had a seizure, they just left my property. Supposed to get my property.

HAMILTON: Your property -- your mean at --

[redacted] That I left overthere at this Long Beach.

HAMILTON: USC?

[redacted] No, this cell. I mean, you know, this jail, new jail. All my property with my witness names.

BELL: The Lynnwood Justice Center.

HAMILTON: They transferred with you, from my understanding. So your property should be here.

BELL: Well, if he gets taken and --

[redacted] I was in the hospital.

BELL: -- and his property doesn't get taken. His property is probably gone.

[redacted] They didn't take it. I have all the names but --

HAMILTON: Okay.

[redacted] My wife has all the names.

HAMILTON: Okay, of all the witnesses? So we can contact your wife, and she'll give us the names?

[redacted] Uh-huh.

HAMILTON: Okay, we'll contact your wife.

[redacted] And like I --

HAMILTON: How -- how --

[redacted] Oh, you know, where the -- where the rest of the witnesses is? In -- in Baker -- matter of fact in Baker ten and Baker eight.

HAMILTON: Your wife has the names, correct?

[redacted] Yeah, she has all the names.

HAMILTON: Okay.

[redacted] Yes, sir.

HAMILTON: How long did -- did this incident take between you and the deputies, in minutes?

[redacted] Oh let's see.

HAMILTON: A minute to five minutes?

[redacted] Oh, no.

HAMILTON: Two minutes?

[redacted] I would say at least about twenty five to thirty minutes. Cause they left -- they left me on that floor bleeding, and then that's when they -- the sergeant and the senior came in. So I'd have to say about thirty minutes.

HAMILTON: So they left you on the floor for twenty five minutes?

[redacted] Hogged tied. More than that. I was laying there bleeding.

HAMILTON: Okay. How long did the altercation take between you and deputy? With -- or the deputies with the beating in the (unint.).

[redacted] I would say about fifteen minutes.

HAMILTON: So they beat you for fifteen minutes?

[redacted] No, I'm talking about the ones that came in.

HAMILTON: I'm talking about from the moment that you started wrestling with the first deputy --

[redacted] With the -- the first one?

HAMILTON: -- to the moment they put the hobble on you.

[redacted] The other officers?

HAMILTON: Yeah.

[redacted] Oh, I --

HAMILTON: The moment they hogged tied you. How long did that take from the beginning to --

[redacted]: Oh, I would have to -- I would have to say, sir, at least about thirty to forty minutes.

HAMILTON: So they beat you for thirty to forty minutes?

[redacted] Not that long -- beating that long, but I'll say between the altercation between this first one and the other one came in there. Them -- I said ones that -- the rest of 'em? I'll have to say about ten to fifteen minutes. I would have to --

HAMILTON: Do you -- do you understand what I'm asking you?

[redacted] How long -- the whole thing.

HAMILTON: How long did it take? Not the whole thing. How long did it take from the moment you started wrestling with first deputy --

[redacted] Uh-huh.

HAMILTON: -- to the moment that they put -- they put the hobble -- what we call a hobble restraint on your legs --

[redacted] No.

HAMILTON: -- and they handcuffed or they attached it to the handcuffs. How long did that take from the -- from that moment to the point they put the restraints on your legs?

[redacted] Sir, I'll have to estimate about twenty minutes.

HAMILTON: So for twenty minutes, you're struggling with the deputies?

[redacted] No, I weren't struggling. I was gettin' beat up, sir --

HAMILTON: You -- okay.

[redacted] -- by the deputies. I weren't struggling.

HAMILTON: You were involved in an altercation with the deputies for twenty minutes?

[redacted] I -- I couldn't fight all them deputies.

HAMILTON: Well, that's -- You --

[redacted] I was gettin' beat.

HAMILTON: -- you understand what I'm saying (unint.) altercation --

[redacted] I was sayin' -- it involved all together. Altercation all together. I'd say about twenty minutes, sir. I would estimate about.

HAMILTON: Okay, I understand you're saying that you weren't fighting the deputies, but that's not what I'm asking you.

[redacted] I couldn't. Okay.

HAMILTON: Okay. So it took you twenty minutes?

[redacted] I would -- yes.

HAMILTON: How long did you lay there after they put the hobble to the moment you that you went down to the clinic?

[redacted] More than ten minutes.

HAMILTON: More than ten minutes, less than twenty?

[redacted] I would say about between ten to fifteen minutes.

HAMILTON: Okay.

[redacted] Cause they was talking. The --

HAMILTON: Okay, that's fine.

[redacted] Yes, sir.

HAMILTON: Just answer my questions. So it took you -- it took twenty minutes, basically --

[redacted]: Yeah.

HAMILTON: -- to struggle with the deputies, and then to hobble you, and it took

another approximately ten to fifteen minutes before they took you to the clinic to be seen by the medical staff, correct?

[redacted] Yes, sir.

HAMILTON: Okay, and then how much long did it take before you went to USC Medical Center?

[redacted] Oh, I'd have to say about -- it did'nt take but about five minutes. About five minutes.

BELL: How are we doing on tape?

HAMILTON: Oh, we got a little left. Do you remember about talking to another sergeant, very tall sergeant down there in the clinic, and he was filming you?

[redacted] Filming me?

HAMILTON: Yeah, on a video tape.

[redacted] I wasn't talking to nobody.

HAMILTON: Yeah, you were. Trust me.

[redacted] Oh, your talking about -- about what happened?

HAMILTON: Yeah.

[redacted] They were filming me?

HAMILTON: Do you remember any of that?

[redacted] I remember somebody took a picture of my face.

HAMILTON: A still photo?

[redacted] Yeah.

HAMILTON: Okay, all right.

[redacted] That's all I remember.

HAMILTON: Okay, okay. Do you have any other --

BELL: Yeah, you talked about being in three different prisons, Chuckawalla, Folsom, --

[redacted] Pelican Bay.

BELL: -- Pelican Bay. Do you remember bein in Tascedero?

[redacted] Oh, yeah, I've been to Tascedero. No -- I want to tell about this here.

BELL: Was that another incident?

[redacted] No. This is what happened, sir. And this -- I -- I was -- only christ know -- only Jesus Christ knows this. When I was at CMC, my buddy said, man, you out to go to Tascedero with me cause they got women man, you'd get you some pussy man. It's a kick back. I said how am I gonna get to Tascedero, boy? Just play crazy. Tell 'em -- go see a psychiatrist, tell 'em you're hearing voices. You mean they got women there? You know, crazy women who can have and everything? That's what my buddy told me. He was going to Tascedero, right?

BELL: Okay.

[redacted] He told me what -- what to do to get there. I said that's how I get there? He said, yeah, man, that's -- he said why do you think you're at CMC. You'd of been at another -- a messed up prison. Just tell -- just go tell them -- ask them -- request to see the psychiatrist and tell him your hearing voices, and then they're gonna send you to Tascedero.

BELL: This is when you're out at Chino? Did they tell you where they --

[redacted] No, this -- this -- CMC.

BELL: Where's CMC?

[redacted] CMC, yes.

BELL: Where is CMC?

[redacted] CMC, is not too far from Sacramento. San -- San Luis -- San Luis Obispo. It's -- not too far from, I think, Sacramento, CMC. It's where they have PC cases and you have two man cells, and they -- they evaluate you right there, and they see that you flipped out, then they'll send you to Tascedero.

BELL: Okay.

[redacted] You know, and like I said I just perpetrated. I mean --

BELL: Have you ever fought with the police in a street?

[redacted] In a street?

BELL: Uh-huh.

[redacted] Nah.

BELL: Okay, anything else Eric?

HAMILTON: No. What's your wife's information. Where do you guys live and your home phone number so we can contact her, and here name.

[redacted] Okay, [redacted]

HAMILTON: Okay.

[redacted] Phone number -- you want the address?

HAMILTON: Yeah, go ahead.

[redacted] Address is [redacted].

HAMILTON: 37?

[redacted] Wait, [redacted]

HAMILTON: Right, in what city?

[redacted] L.A.

HAMILTON: Okay, and her name is [redacted] --

[redacted] [redacted]

HAMILTON: [redacted]

[redacted] Uh-huh.

HAMILTON: Is she your legal wife?

[redacted] Well, common-law. We're gettin' ready to get married.

HAMILTON: Okay, 213 area code?

[redacted] 310.

HAMILTON: 310, go ahead. What's the number?

[redacted] Okay, [redacted] --

HAMILTON: Right.

[redacted] -- [redacted].

HAMILTON: Okay.

[redacted] Okay, now, put -- if -- if she's not there --

HAMILTON: Yeah.

[redacted] -- you can put her sister's name, ask for [redacted]. [redacted] her sister.

HAMILTON: Is [redacted] gonna have the information?

[redacted] Oh, they -- they stick together because if [redacted] not's there -- a lot

of times she be baby sittin' -- if she's not there, then [redacted] -- [redacted] has the information.

HAMILTON: Does [redacted] work?

[redacted] No.

HAMILTON: Okay, okay. So everything that you provided is -- all the information that you provided us is the truth, correct?

[redacted] Yes, sir.

HAMILTON: Okay, anything else you want to add to this as far as this incident?

[redacted] I just want to say, sir, I am not the only victim. If you -- if you ever go up to the 7,000 where they say mental patients -- I seen -- before this incid -- incident on me, I see 'em beat down guys like they -- like they dogs.

HAMILTON: Okay. What we're do -- doing --

[redacted] You know, so I --

HAMILTON: -- right now is --

[redacted] What? Okay.

HAMILTON: -- dealing with your incident.

[redacted] Okay, well, that's -- that's it as far as mines, but --

HAMILTON: Can you recognize any of the deputies if we show you pictures?

[redacted] Yeah.

HAMILTON: Okay, you can recognize the deputies?

[redacted] Uh-huh.

HAMILTON: Okay, all right. Well, we're gonna end this interview at 14 -- we'll just say 1440 hours. Okay, we're back on tape at 1445 or 47 hours. I have a couple more

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questions to ask you. Are you on medication right now?

[redacted] Yes, sir.

HAMILTON: What type of medication are you on, and why are you taking it?

[redacted] (Unint.) and of Phenobarbital.

HAMILTON: And what else?

[redacted] And Thorazine.

HAMILTON: Why are you on it?

[redacted] Cause I hear voices.

HAMILTON: Is that the truth?

[redacted] No, because as quiet as it's kept I can't sleep.

HAMILTON: Okay.

[redacted] I'm around this place cause they transfer me here and there.

HAMILTON: Okay.

[redacted] I be paranoid, and the doctor said schizophrenic from this beating.

HAMILTON: Okay.

[redacted] And every time I --

HAMILTON: Well, is it from this beating? Cause you were taking medication prior to this beating, correct?

[redacted] Uh-huh.

HAMILTON: Okay, the same medication that you used just told me that your taking, you took it prior to this incident?

[redacted] Uh-huh. Oh, yes. Oh, I forget --

HAMILTON: Hold on.

[redacted] Wait a second.

HAMILTON: Correct?

[redacted] Oh, yes.

HAMILTON: Okay, and you're also -- you're taking medication because you have seizures?

[redacted] Yes, sir.

HAMILTON: Okay, are you willing to take a polygraph examine?

[redacted] Yes, sir.

HAMILTON: Okay, are you sure? You don't have to do it.

[redacted] Yes, sir.

HAMILTON: You're -- you're aware of that?

[redacted] Yeah, yeah.

HAMILTON: Okay, you're gonna say something real quick?

[redacted] Oh, I want to say that I was beaten before by officers.

HAMILTON: Where at?

[redacted] This was at HOJJ.

HAMILTON: When where you there?

[redacted] Oh, about -- I think it was '82.

HAMILTON: '82? 1982 at the Hall of Justice?

[redacted] Hall of Justice, yeah.

HAMILTON: Okay, was that reported? Did you talk to supervisors or anything?

[redacted] Nope.

HAMILTON: Okay. All right, let me end this interview at 1452.

END OF STATEMENT

COUNTY OF LOS ANGELES - SHERIFF'S DEPARTMENT

SUPPLEMENTARY REPORT

Date: January 5, 1995

File No: 494-00023-2300-444

C- Suspicious Circumstances, Possible Assault Under the Color of Authority, 149 PC

Action Taken: Active/ Additional Information

V- N/A

I- [redacted], MB/A, Booking No. [redacted]

W- [redacted], MW/A, Booking No. [redacted] (Prison [redacted])

D- October 27, 1994, at approximately 0030 hrs.

L- Men's Central Jail, Module 4400

S- N/A

On December 13, 1994, at approximately 1109 hrs., Sergeant Ron and I interviewed Inmate [redacted], at the North Kern State Prison, regarding an altercation between Inmate [redacted] and deputy personnel assigned to Men's Central Jail (MCJ). The interview was tape recorded.

Inmate [redacted] said that on October 27, 1994, during the early morning hours, he and Inmate [redacted] were housed in module 4400, cell B-4. Between 0030 and 0100 hrs., the module deputy (David Kluth[redacted]) opened Inmate [redacted] cell to release his cellmate. While the inmate was exiting, Inmates [redacted] and [redacted] also exited the cell. Inmate [redacted] said he had exited to find a sleeping pill from a fellow inmate. The deputy told the two inmates to return to their cell, but they ignored his orders and continued conducting their personal business. The deputy closed the cell and left the inmates on the row for twenty minutes. He then ordered the inmates into the shower area. Inmate [redacted] complied, but [redacted] continued to walk the row. The deputy closed the shower and left [redacted] standing on the row. The deputy tried again to convince [redacted] to enter the shower, but he was unsuccessful.

Ten minutes later, another uniformed deputy entered the module and relieved Deputy Kluth. The deputy was described as a male white, 6', 185-190lbs., flat top hairstyle, orange in color. Deputy Kluth opened the "B" row gate and ordered [redacted] off the row.

115

Inmate [redacted] stood on the shower bench and watched the entire incident unfold from the southwest section of the shower. [redacted] entered the sallyport and was directed toward the southwest wall, directly in front of the "A/C" row gates. As the two were walking, Deputy Kluth pushed [redacted] right shoulder. [redacted] quickly turned around and faced the deputy. They threw punches at one another, but none connected. They grabbed hold (front bear hug) of each other and began to wrestle. [redacted] pushed the deputy across the sallyport and into the "B/D" metal shower bars, where they fell to the floor. They landed directly in front of Inmate [redacted].

Inmate [redacted] said that he heard the main module door open and saw three to four uniformed deputies approaching [redacted] and Deputy Kluth. Inmate [redacted] described the deputies as a male Hispanic, 5'10, 175 lbs., somewhat stocky, mustache, short crew cut hairstyle, brown in color, and the remaining deputies were described as male whites, NFD, and one possible Asian, NFD. The Hispanic first approached [redacted] and other deputies followed. The Hispanic deputy knelt at the back of [redacted] head, grabbed his face, and hit him. The deputy punched [redacted] approximately five (5) times in the face. He also grabbed [redacted] right hand, stated that he was going to break his ([redacted] fingers, and commenced to smash the hand against the shower bars. Deputy Kluth eventually got loose and the other deputies continued to attack [redacted] for another minute. Inmate [redacted] estimated that [redacted] received an additional fifty (50) punches and twenty (20) kicks. Inmate [redacted] even saw one deputy (unable to provide identity) kick the back of [redacted] head.

During the altercation, [redacted] was turned on his back and Inmate [redacted] saw his face was covered with blood. [redacted] was subsequently turned on his stomach and handcuffed. Deputy Kluth held [redacted] head and upper torso down while the remaining deputies held his mid section and legs. Inmate [redacted] felt 80% certain that the deputy who held [redacted] right leg was the same person who relieved Deputy Kluth in the booth.

Inmate [redacted] said that after [redacted] was handcuffed the above deputy lifted his right leg and kicked him an additional five (5) times. Inmate [redacted] could not see exactly where the kicks had landed, but he felt they had struck [redacted] on or near his groin region.

A deputy noticed Inmate [redacted] watching the incident and told him to turn around and face the wall. He complied with the deputy, but shortly thereafter, he turned back around and saw that [redacted] was hobbled and on his side. [redacted] kept yelling that he was beaten by "inmates." The nursing staff arrived at the module and escorted [redacted] away.

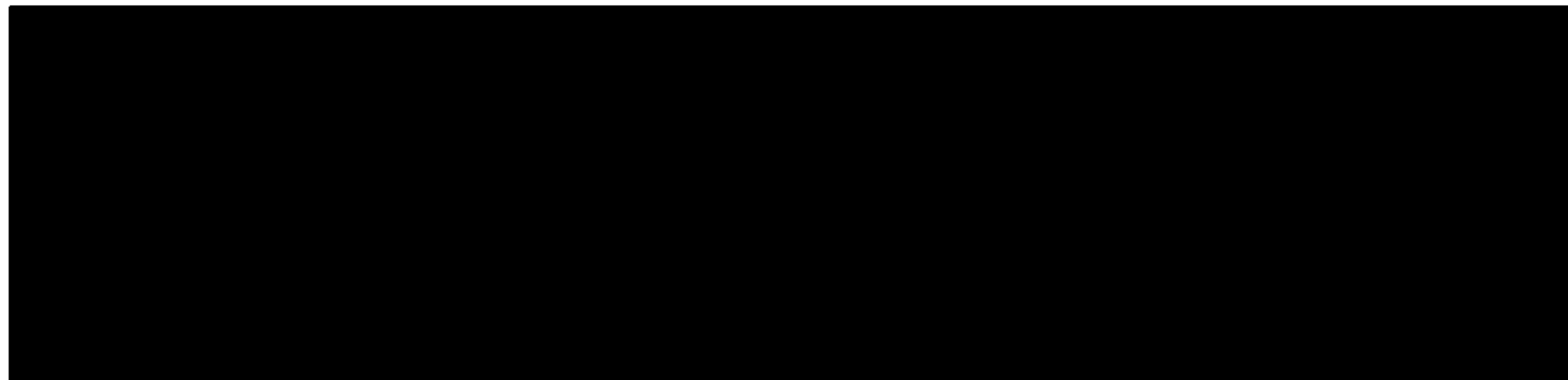
Note: My investigation revealed that the person who relieved Deputy Kluth in the booth was Deputy Gary Sloan [redacted]. This information was provided to me by Deputies Cesar Romero [redacted] and Todd Kammer [redacted] (refer to supplementary reports). In addition, Internal Affairs Bureau investigators presented Inmate [redacted] with five "Mug" show-up folders (copies attached) of deputy personnel. The inmate only identified Deputy Kluth and Deputy [redacted] as participants.

It should be noted that on April 3, 1995, I contacted Inmate [redacted] and he confirmed the above described male Hispanic deputy was the same Hispanic person identified ([redacted]) in the "Mug" show-up.

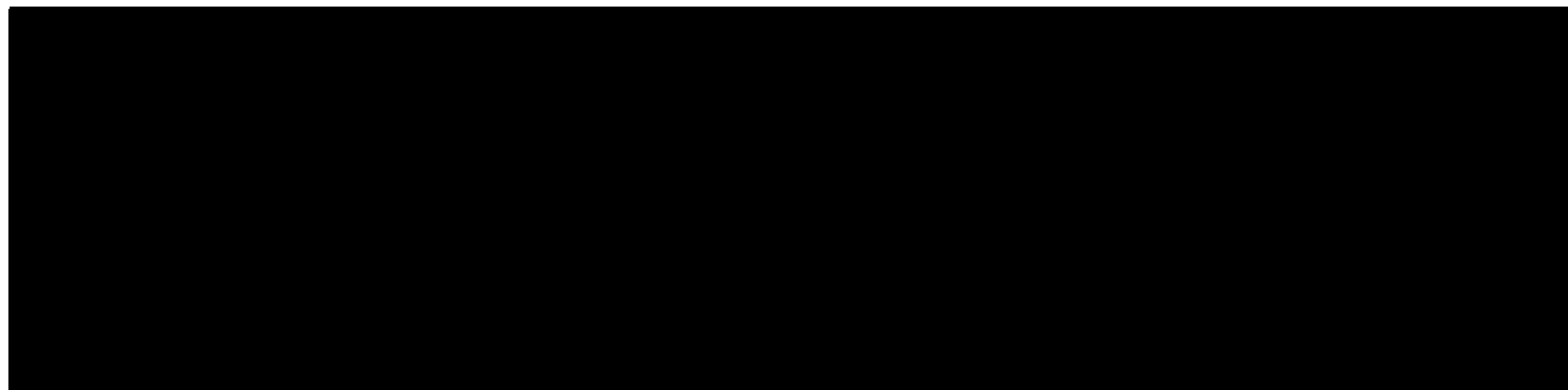
Sergeant Eric K. Hamilton, Emp. [redacted]
Internal Criminal Investigations Bureau
Professional Standards and Training Division

Approved By: Gerald [signature] Lt. **Date:** 4/13/95

[redacted] "MUG" SHOW-UP FOLDER A 18



1 2 3



4 5 6

[redacted] I CAN NOT I D ANYONE.

"MUG" SHOW-UP FOLDER

E 119

[redacted]

1 2 3

HE WAS INVOLVED IN THE INTIAL CONFRONTATION,

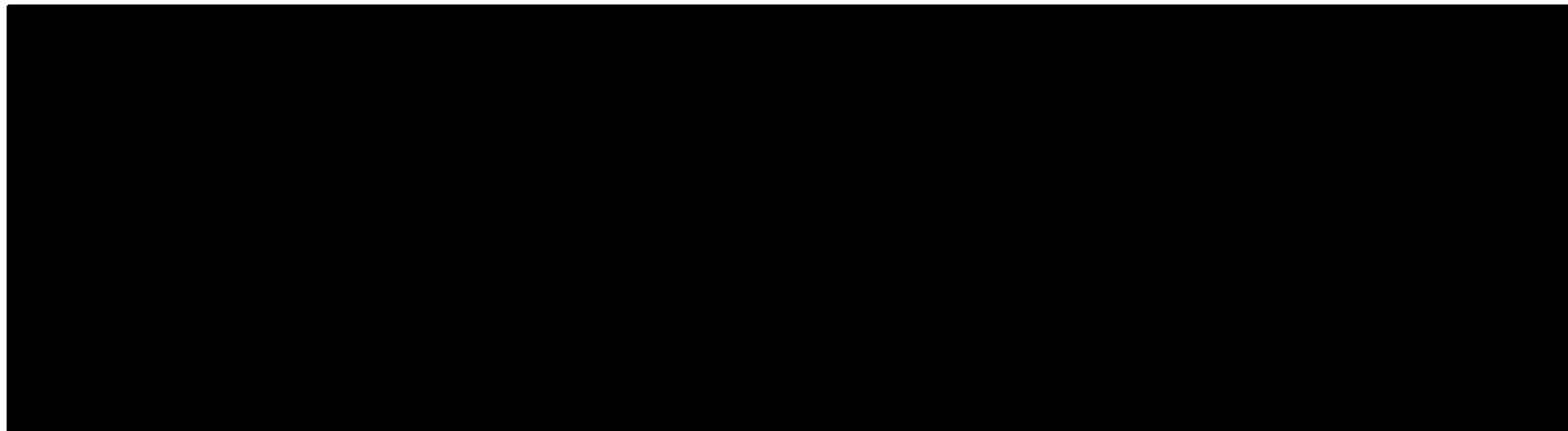
[redacted]

4 5 6

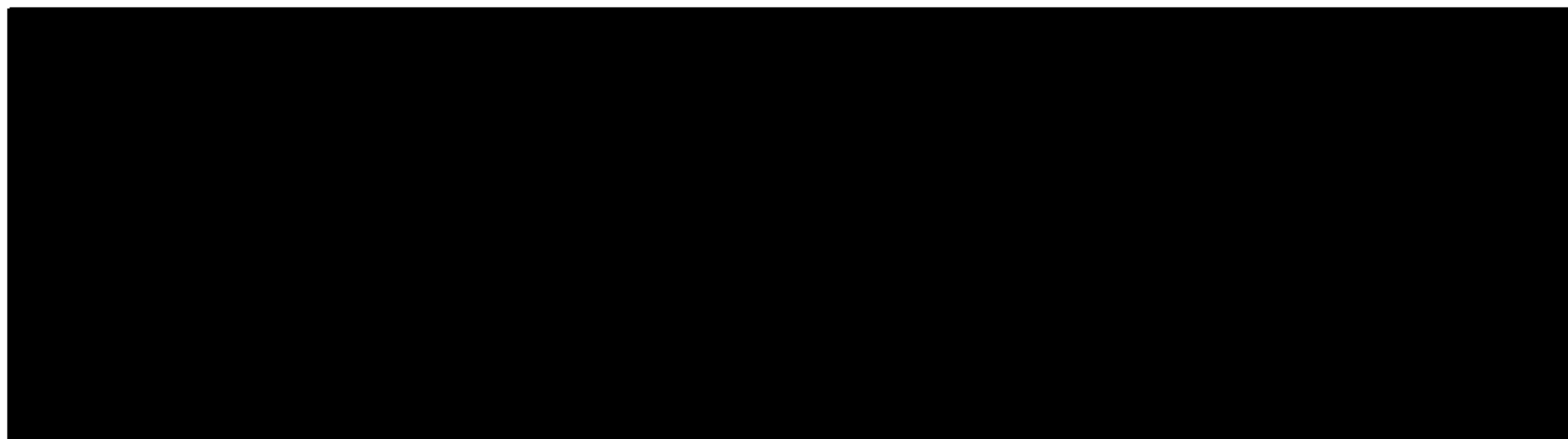
[redacted]

"MUG" SHOW-UP FOLDER

C 120



1 2 3

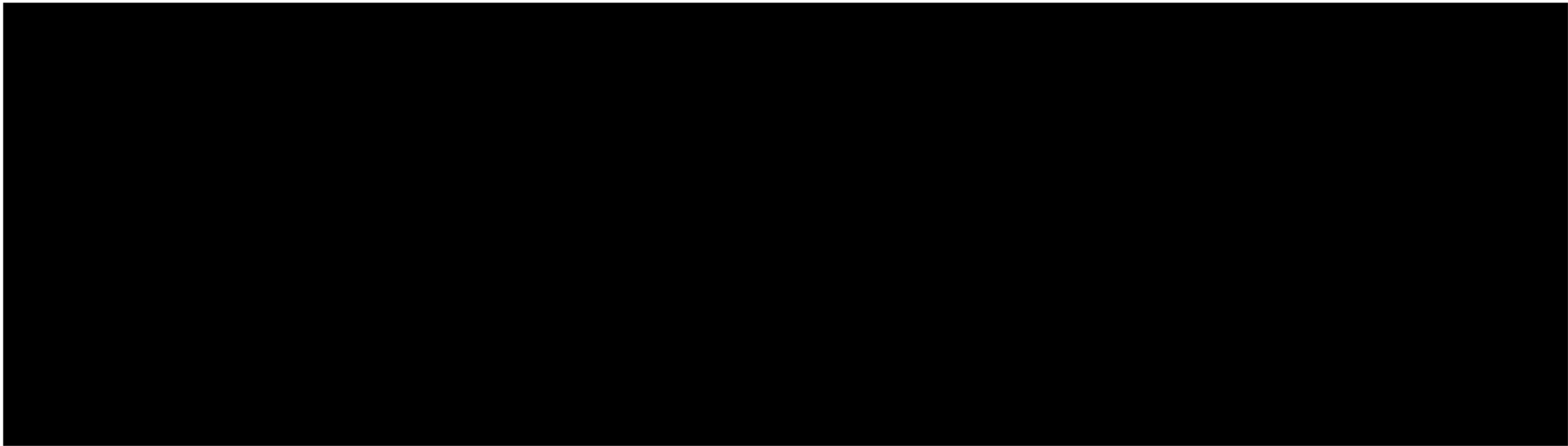


4 5 6

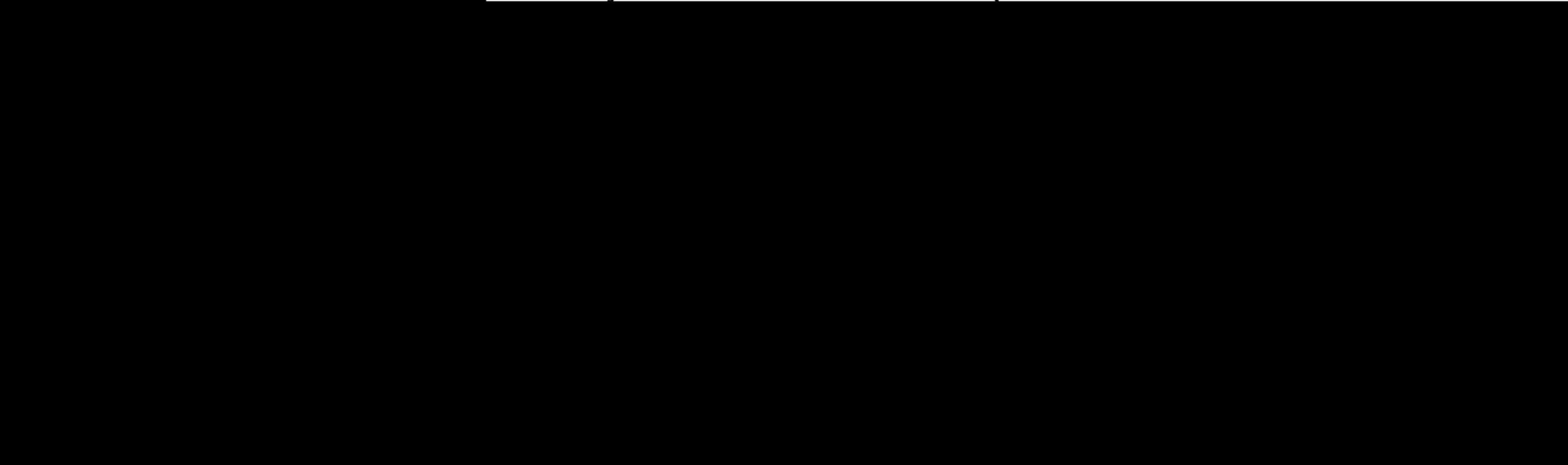
[redacted] I CANT ID ANYONE.

"MUG" SHOW-UP FOLDER

D 121



1 2 3



4 5 6

I SAW HIM KICK AND PUNCH [redacted]
AND HE WAS SWEARING AND HITING HIS

I-SH-CR-574- 8/87

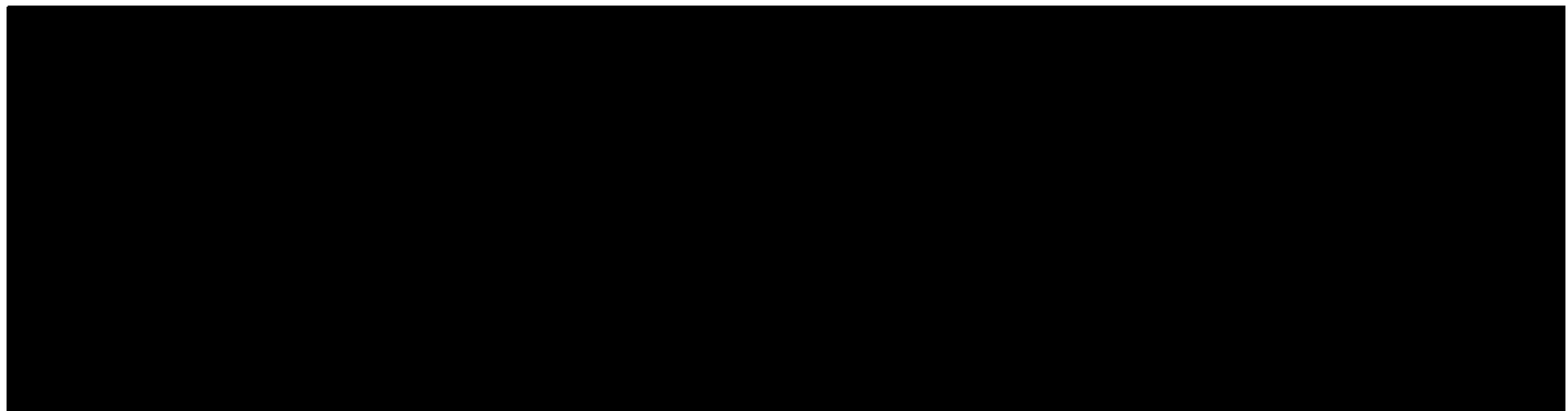
"MUG" SHOW-U FOLDER

E 122

[redacted]

1 2 3

NOT # ONE BUT THE HAIR IS
THE SAME.


[redacted]

4 5 6

[redacted]

24-SH-CR-574- 8/87

COUNTY OF LOS ANGELES - SHERIFF'S DEPARTMENT

SUPPLEMENTARY REPORT

Date: December 28, 1994 **File No:** 494-00023-2300-444

C- Suspicious Circumstances, Possible Assault Under the Color of Authority, 149 PC

Action Taken: Active/ Additional Information

V- N/A

I- [redacted], MB/A, Booking No. [redacted]

W- [redacted], MH/A, Booking No. [redacted]

D- October 27, 1994, Approximately 0030 Hrs.

S- N/A

On December 7, 1994, at approximately 1700 hrs., Sergeant Ron Bell and I interviewed Inmate [redacted] at Men's Central Jail (MCJ) regarding an allegation of excessive force by deputy personnel assigned to MCJ. The interview was tape recorded.

Inmate [redacted] said that on October 27, 1994, between 0130 and 0200 hrs., he was assigned as the EM shift trusty in Module 4400, under Deputy Kluth's command. At that time, he heard Deputy Kluth repeatedly order, via public address system, an inmate (later identified as [redacted] to return to his cell (B-4). [redacted] did not obey the deputy, instead; he attempted to hide from him. Eventually, Deputy Kluth convinced [redacted] to enter the "B" row dayroom. [redacted] had gotten out of his cell when the gate was opened to release another inmate.

Deputy Sloan subsequently entered the module and relieved Deputy Kluth in the booth. As the relief took place, Inmate [redacted] overheard Deputy Sloan tell Deputy Kluth something like "You're the lucky one, you get to have all the fun." Deputy Kluth went to the dayroom and ordered [redacted] out. He grabbed the back of [redacted] shirt and escorted him off the row and to the southwest wall, directly in front of the "A/C" row gates.

Deputy Kluth pushed [redacted] against the wall and he immediately turned around, grabbed the front of Deputy Kluth's shirt and they started to wrestle in the sallyport area. [redacted] got Deputy Kluth off-balance and threw him to the floor. They fell to the floor and continued to wrestle by the "B/D" row gates. At the time, neither of the combatants had thrown a punch or kick.

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While Inmate [redacted] continued to watch the altercation from the front of the "A/C" row gates, he noticed Deputy Sloan talking on the telephone in the booth. Approximately 10 to 15 seconds later, three uniformed deputies ([redacted], [redacted], and another male white or light complexion Hispanic) entered the module and helped Deputy Kluth.

NOTE: Inmate [redacted] could identify the four aforementioned deputies (KLUTH, SLOAN, [redacted], and [redacted]) because of prior jail contacts.

Deputy Kluth and [redacted] were still wresting near the "B/D" row gates. They were laying on their sides and facing one another. Deputy Kluth was laying on his left side, facing the entryway, and [redacted] was laying on his right side, facing the "B/D" row's shower bars. Their heads were positioned in a southeasterly direction, while their feet were in a northwesterly direction.

The three assisting deputies stood behind [redacted] and attempted to separate him from Deputy Kluth. The unidentified deputy placed his knee (unknown which knee) on [redacted] neck, pulled his head back and started punching his upper torso. Deputy [redacted] grabbed [redacted] by the waist and tried to pull him away from Deputy Kluth. Deputy [redacted] grabbed [redacted] testicles with his right hand and he [redacted] screamed "I give up." Deputy Kluth got to his knees and [redacted] grabbed his legs and prevented him (KLUTH) from getting up. Deputy Kluth yelled "You mother fucker" and commenced to punch [redacted] in the face and upper torso area. Meanwhile, the other three deputies continued their attempts to free Deputy Kluth. [redacted] eventually gave up and complied with the deputies.

Approximately a minute later, another group of five to six more deputies arrived. One of the deputies (described as a male white, 6'1" to 6'2", 190 lbs., flat top hairstyle, possibly wearing eyeglasses) directed Inmate [redacted] to leave the sallyport area and go to the "C" row dayroom. Inmate [redacted] later identified the above person as possibly being Deputy [redacted]. The remaining five deputies were described as male whites, NFD. While in the dayroom, Inmate [redacted] heard [redacted] screaming for about 10 seconds and then the deputies laughing.

Inmate [redacted] saw a nurse enter the module and heard her say "Oh My God." The nurse then escorted [redacted] away. Once [redacted] was gone, the above described deputy (possibly [redacted]) asked Inmate [redacted] if he had witnessed the altercation between Deputy Kluth and [redacted] The inmate told the deputy that he was inside the dayroom and did not see the encounter. The inmate lied because he feared retribution by the deputies.

The deputy then directed the inmate to clean-up and disinfect the area where the altercation took place. The inmate saw blood on the floor near the "B/D" row gates and the wall across from the row gates. He cleaned the area, placed the soiled towels in a plastic bag and placed it in the 4000 floor elevator for disposal. He was adamant there was no blood on the floor before he was sent to the dayroom. He estimated the entire incident, from initial confrontation to [redacted] being escorted away, lasted 45 to 60 minutes.

Inmate [redacted] admitted that he never saw a deputy kick [redacted] in his groin area, nor did he see the actual handcuffing or hobbling of [redacted] Additionally, he was unable to state if [redacted] continued to resist the deputies after he ([redacted]) was sent to the dayroom.

Inmate [redacted] advised that Inmates [redacted], [redacted] (booked as [redacted]) and another unidentified inmate were also possible witnesses to the incident. The investigation revealed that the unidentified inmate was [redacted] and he was inside the "B" row showers during the entire incident. Inmate [redacted] was on the module pay-phone, but ran into the 4000 floor hallway shortly after the initial confrontation. Trusty [redacted] was cleaning "D" row during the incident.

NOTE: This case was initially assigned to Sergeant John Nemeth, Internal Affairs Bureau, for an Administrative review. He interviewed (Tape Recorded) Inmate [redacted] and presented "Mug" show-up folders (attached), depicting deputy personnel assigned to MCJ. Inmate Rodriquez identified the following deputies as participants or merely being present during the incident:

1. Deputy [redacted] Emp. [redacted]
2. Deputy David Kluth, Emp. [redacted]
3. Deputy Gary Sloan, Emp. [redacted]
4. Deputy [redacted] Emp. [redacted]
5. Deputy [redacted] Emp. [redacted]

After review of the "Mug" show-up folders, I noticed that Inmate [redacted] identified Deputy [redacted] as the possible deputy with the flat top hairstyle. Inmate [redacted] could possibly identify other sworn personnel that were present during the incident.

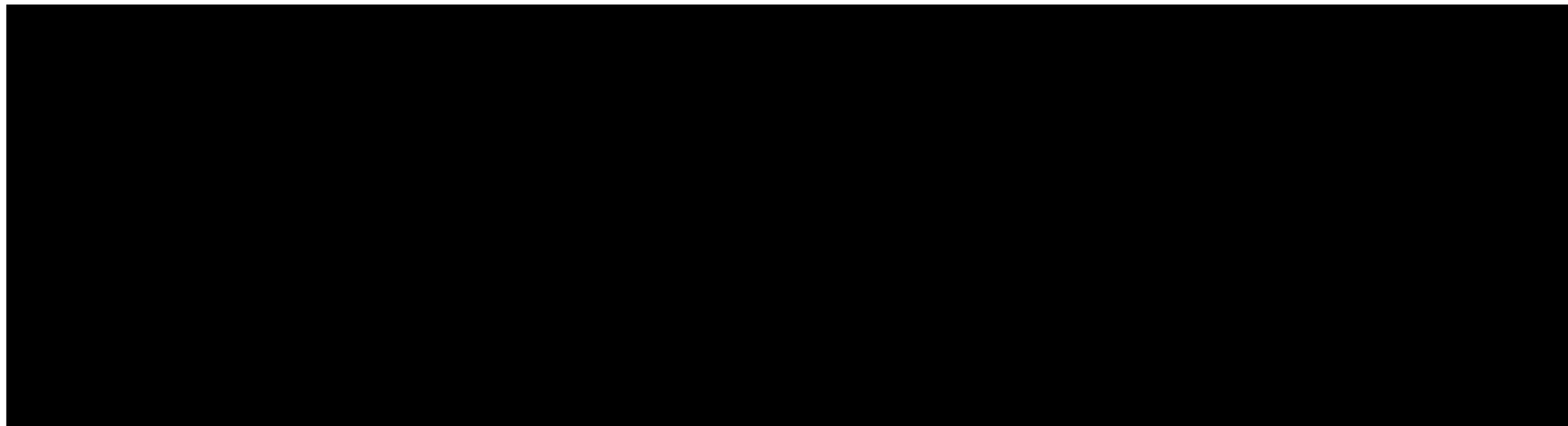
SERGEANT ERIC K. HAMILTON, EMP. [redacted]
INTERNAL CRIMINAL INVESTIGATIONS BUREAU
PROFESSIONAL STANDARDS AND TRAINING BUREAU

APPROVED BY: ____________ **DATE:** ____________

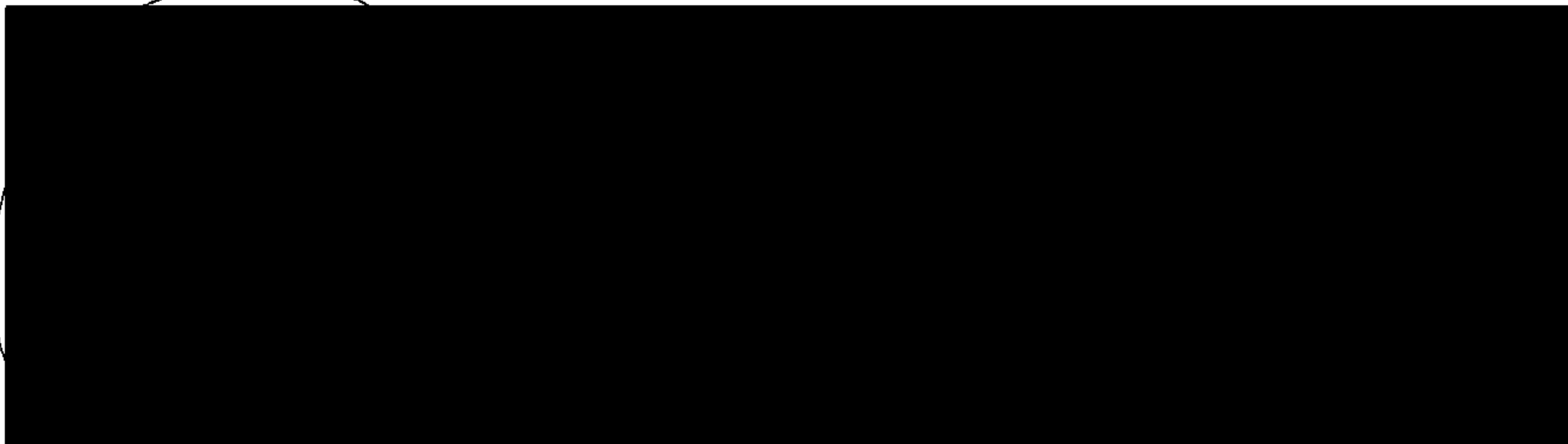
[redacted]

"MUG" SHOW-UP FOLDER

A 126



1 2 3

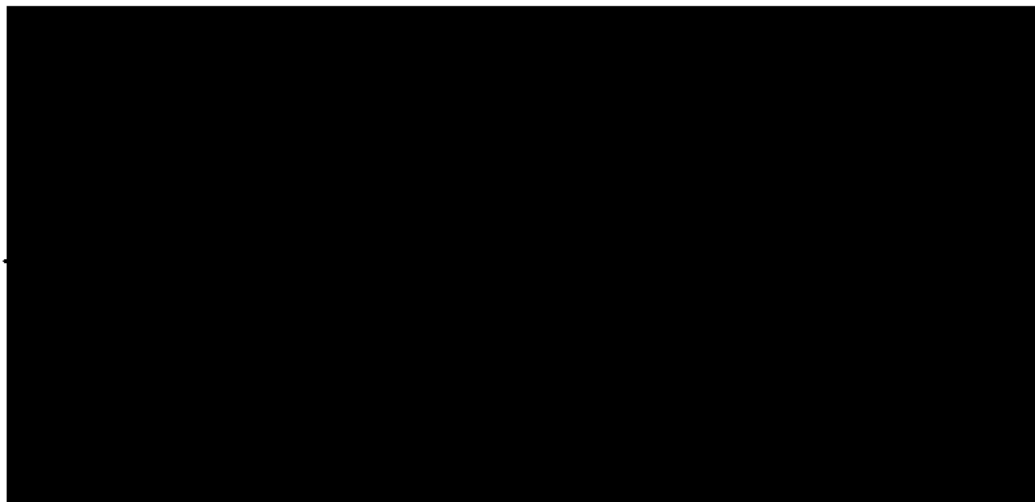


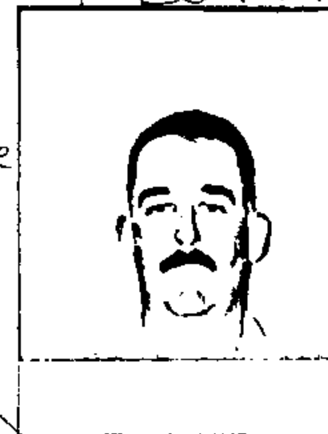
4 5 6

MUG SHOW-U[illegible] FOLDER

5 127

[redacted]





HE WAS THE MODULE OFFICER THAT WAS WORKING

1 2 3

[redacted]

4 5 6

6M724-SH-CR-574 8/87

"MUG" SHOW-U[illegible] FOLDER

C 128

[redacted]

1 2 3

SLOAN

4

HC Relieve [redacted]
Deputy Klot [redacted]
in the Booth [redacted]

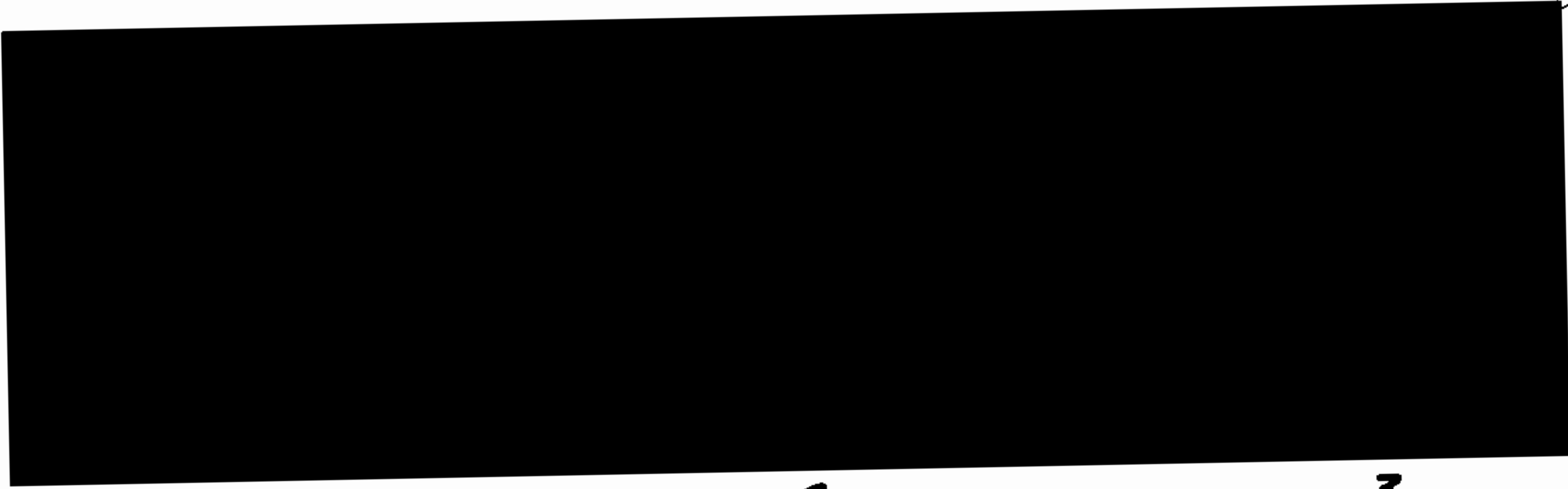
5 6

[redacted]

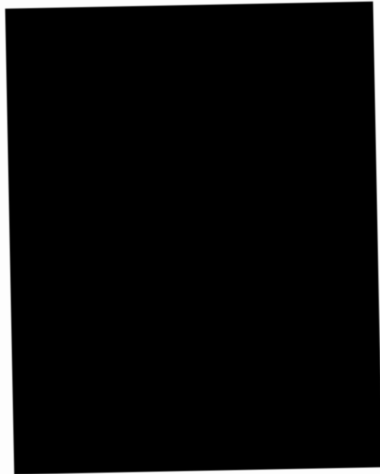
76M724-SH-CR-574- [redacted]

MUG SHOW-UP FOLDER

D 129


[redacted]

1 2 3


[redacted]

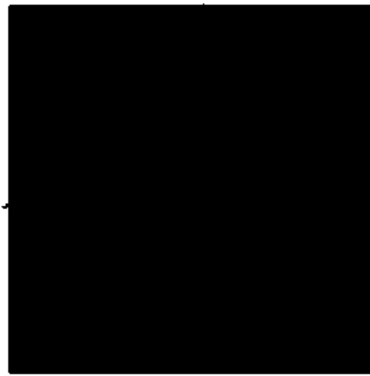
He was
the First
Respondin [redacted]
Deputy

[redacted]

4 6

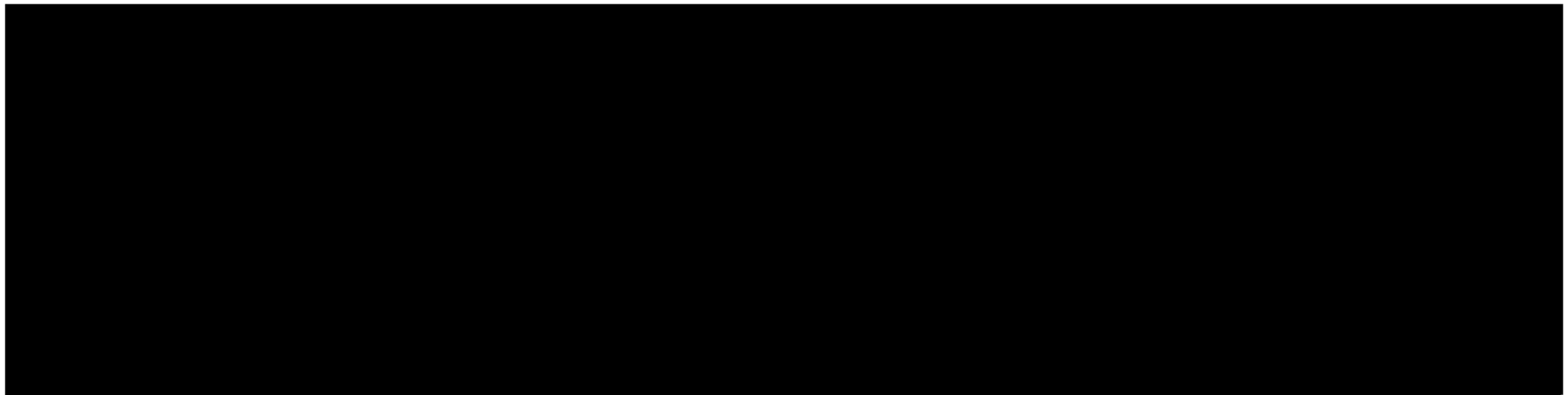
"MUG" SHOW-UP FOLDER

E 130



I THINK [redacted]
[redacted] WAS THE
THAT ASKE[redacted]
TO WIPE
THE BLOOD
I DIDNT SEE
HIM TO AFTE[redacted] W[redacted]
EVERYTHING
OVER

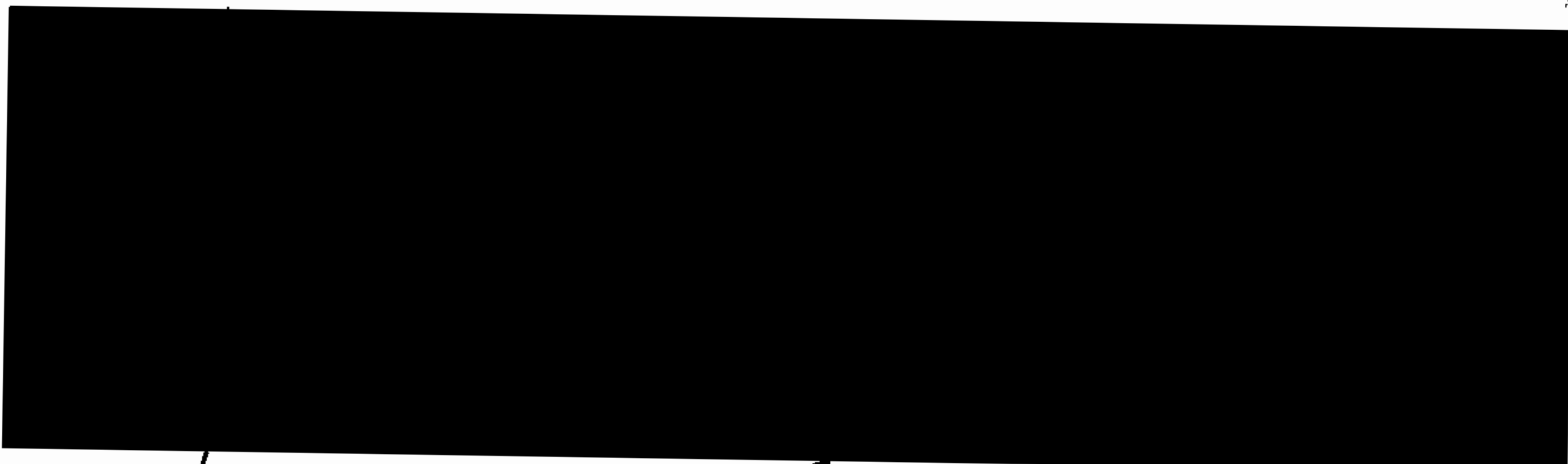
1 2 3



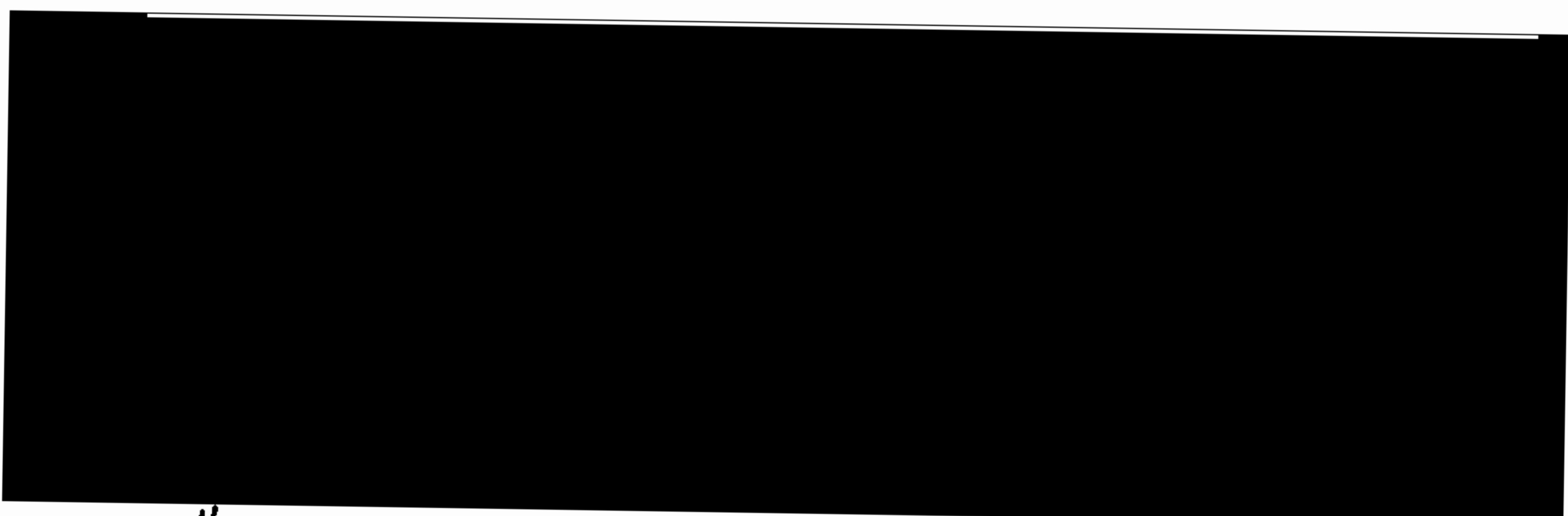
4 5 6

"MUG" SHOW-UP FOLDER

131



1 2 3



4 5 6

I could not IDentify Anyone

[redacted]

COUNTY OF LOS ANGELES - SHERIFF'S DEPARTMENT

SUPPLEMENTARY REPORT

Date: January 12, 1995

File No: 494-00023-2300-444

C- Suspicious Circumstances, Possible Assault Under the Color of Authority, 149 PC

Action Taken: Active/ Additional Information

V- N/A

I- [redacted] MB/A, Booking No. [redacted]

W- [redacted] MH/A, Booking No. [redacted]

D- October 27, 1994, at approximately 0030 hrs.

S- N/A

On October 27, 1994, Inmate [redacted] witnessed an altercation in Module 4400, at Men's Central Jail. The incident involved deputy personnel assigned to the facility and Inmate [redacted]

On January 12, 1995, at approximately 1737 hrs., I contacted Inmate [redacted] and presented four "Mug" Show-up folders (G thru J), depicting deputies assigned to Men's Central Jail. The purpose of the show-up was to identify additional deputy personnel who were possible participants in the altercation. The inmate reviewed each folder and could not identify any deputy (refer to attachments).

Note: Inmate [redacted] was previously shown "Mug" Show-up folders (A Thru F) by Sergeant John Nemeth (IAB) and he provided the identity of five deputy participants. The information was submitted with Inmate [redacted]' statement report.

Sergeant Eric K. Hamilton, Emp. [redacted]
Internal Criminal Investigations Bureau
Professional Standards and Training Bureau

Approved By: Gerald Barner [signature] **Date:** 4/3/95

132

YOU WILL BE ASKED TO LOOK AT A GROUP OF PHOTOGRAPHS. THE FACT THAT THE PHOTOGRAPHS ARE SHOWN TO YOU SHOULD NOT INFLUENCE YOUR JUDGMENT. YOU SHOULD NOT CONCLUDE OR GUESS THAT THE PHOTOGRAPHS CONTAIN THE PICTURE OF THE PERSON WHO COMMITTED THE CRIME. YOU ARE NOT OBLIGED TO IDENTIFY ANYONE. IT IS JUST AS IMPORTANT TO FREE INNOCENT PERSONS FROM SUSPICION AS TO IDENTIFY GUILTY PARTIES. PLEASE DO NOT DISCUSS THE CASE WITH OTHER WITNESSES NOR INDICATE IN ANY WAY THAT YOU HAVE IDENTIFIED SOMEONE.

I HEREBY CERTIFY THAT I HAVE READ THE ABOVE PARAGRAPH AND FULLY UNDERSTAND ITS CONTENTS: [redacted] DATE 1-12-95 [redacted]

Sgt Eric K. Hamilton [redacted], 1737 HRS.

G

1-12-95

I DID NOT RECONIZE ANYONE [redacted]

"MUG" SHOW-UP FOLDER

[redacted]

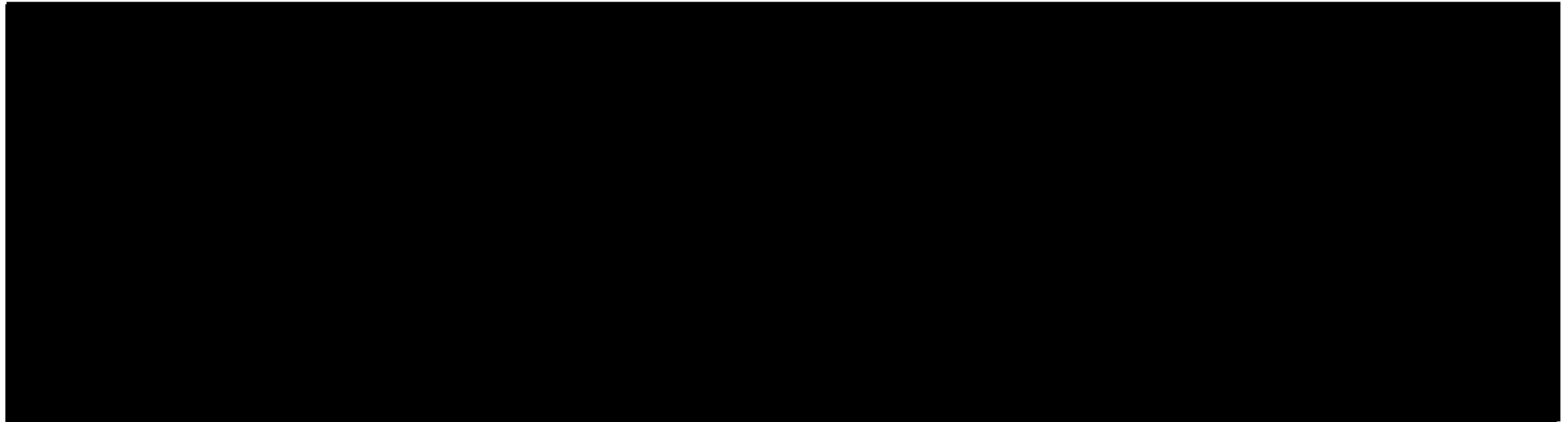
1 2 3

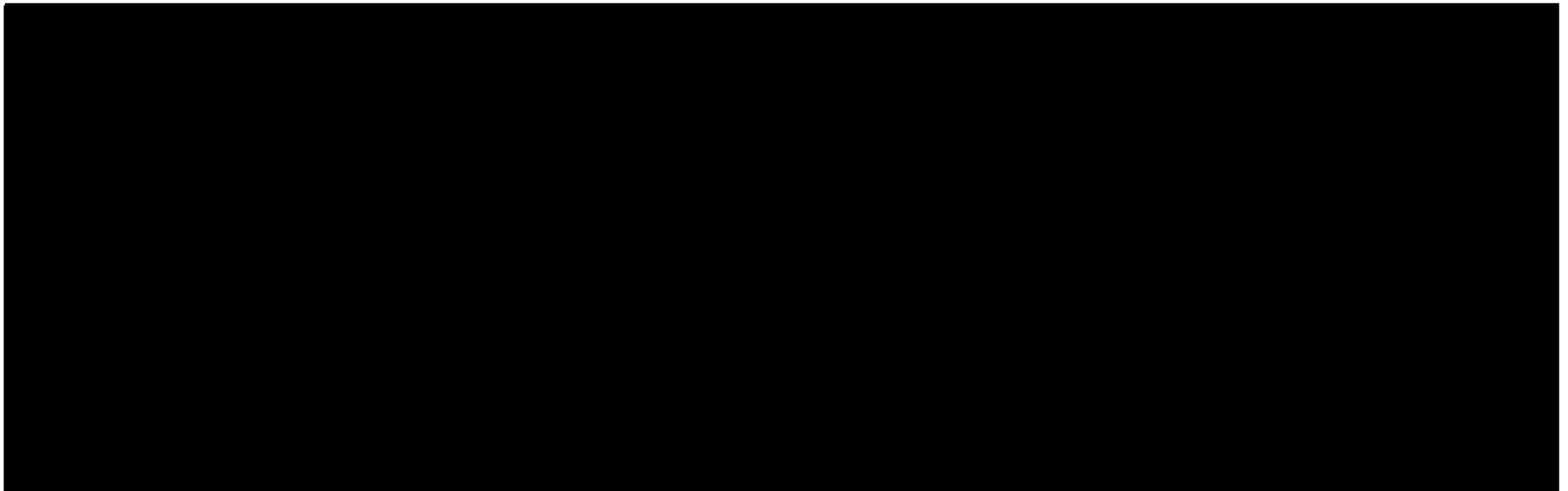
[redacted]

134

1-12-95
I DID NOT RECCNIZE ANYO[redacted]

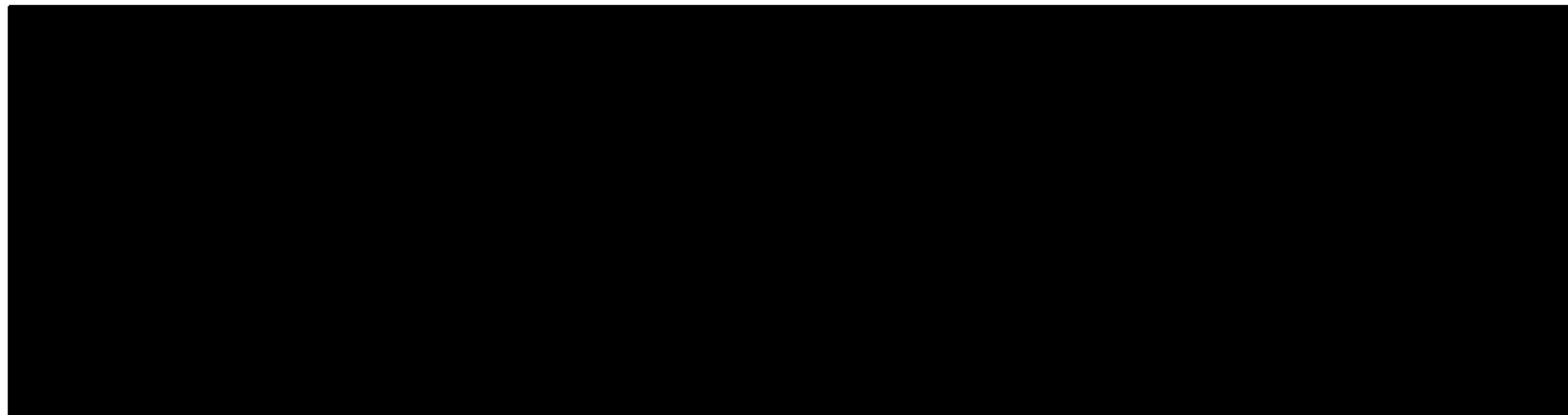
"MUG" SHOW-UP FOLDER


[redacted]

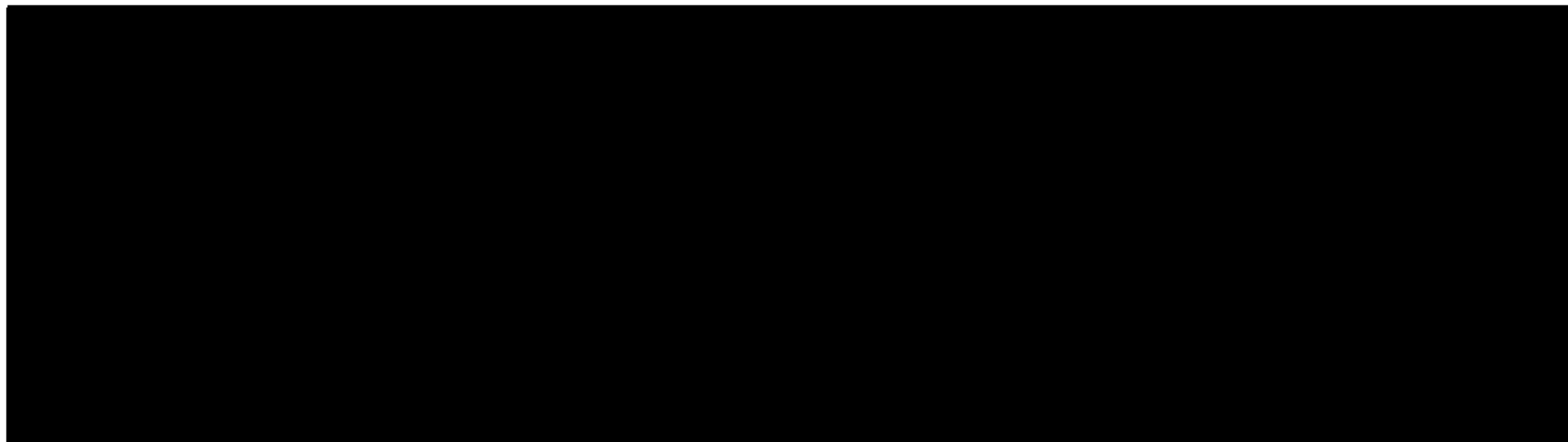

[redacted]

1-12-95
I DID NOT [redacted]

"MUG" SHOW-UP FOLDER



1 2 3

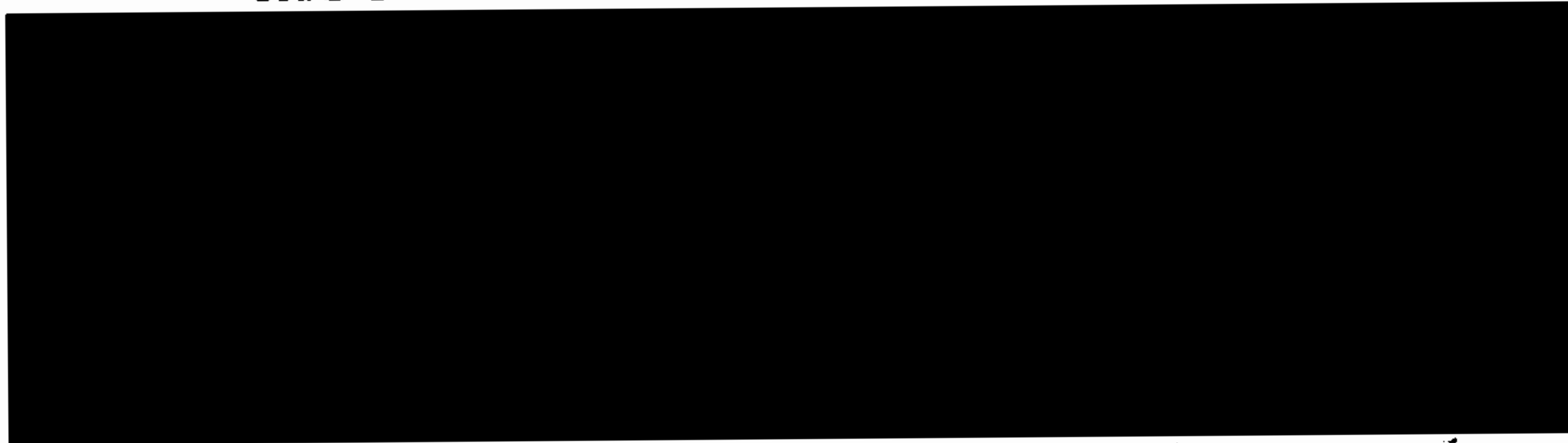


4 5 6

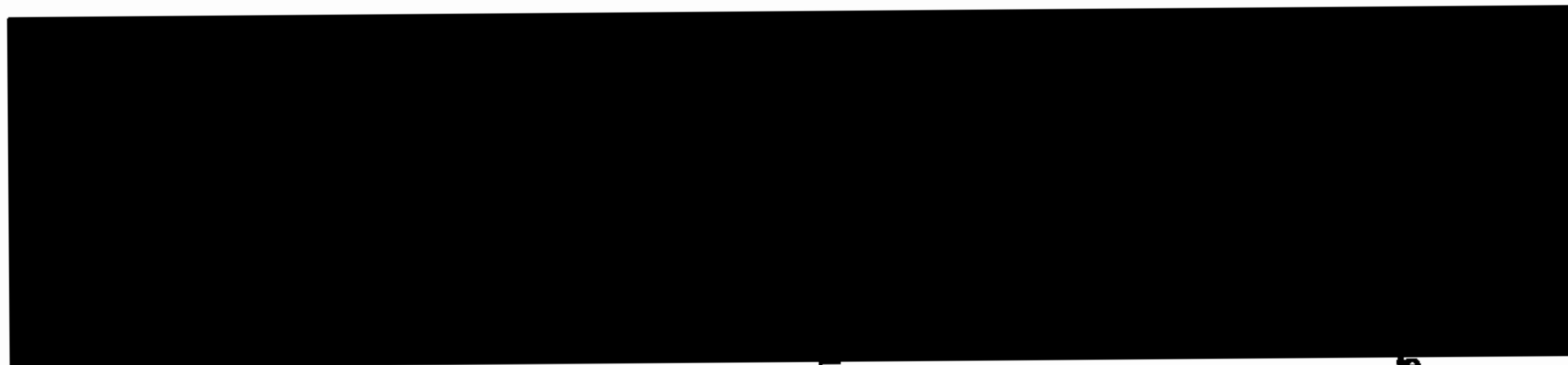
136

J
1-12-95 RR
I DID NOT
RECONIZE [redacted]

"MUG" SHOW-UP FOLDER



1 2 3



4 5 6

COUNTY OF LOS ANGELES - SHERIFF'S DEPARTMENT

SUPPLEMENTARY REPORT

Date: January 4, 1995 **File No:** 494-00023-2300-444

C- Suspicious Circumstances, Possible Assault Under the Color of Authority, 149 PC

Action Taken: Active/ Additional Information

V- N/A

I- [redacted], MB/A (Booking No. [redacted])

W- [redacted], MB/A, Booking No. [redacted],
[redacted],,

D- October 27, 1994, Approximately 0030 hrs.

L- Men's Central Jail, Module 4400

S- N/A

On December 7, 1994, at approximately 1805 hrs., Sergeant Ron Bell and I interviewed Inmate [redacted] at Men's Central Jail (MCJ) regarding an allegation of excessive force by deputy personnel assigned to MCJ. The interview was tape recorded.

Inmate [redacted] said that on October 27, 1994, sometime after midnight, he was talking to his common-law wife ([redacted] on the 4400 module pay-phone, when he heard Deputy Kluth (module deputy) talking on the public address system. Deputy Kluth had repeatedly ordered an inmate (later identified as [redacted] on "B" row to return to his cell. This lasted for about 20 to 30 minutes, without success. Eventually, another uniformed deputy (described as a male Caucasian 5'9", flat top hairstyle, blond, semi-muscular, and mustache) entered the module and relieved Deputy Kluth in the booth.

Deputy Kluth stood at the "B" row gate and directed [redacted] off the row and into the sallyport area, where he positioned the inmate against the southwest wall. They stood just in front of the "A/C" row gates, with [redacted] facing the wall and Deputy Kluth standing behind him. Because of their location, Inmate [redacted] was only able to see Deputy Kluth. Deputy Kluth engaged [redacted] in a brief conversation and then he extended his hands, twice, as if to shove [redacted] in the back. [redacted] immediately turned around and faced Deputy Kluth. He grabbed the front of [redacted] shirt and pushed him back against the wall.

Deputy Kluth tried to regain control of [redacted] but he knocked Deputy Kluth's hands away. Deputy Kluth retreated, produced his flashlight, and tried to strike [redacted] The two individuals grabbed each other and began wrestling.

They moved from the "A/C" row side (west) to the "B/D" row side (east) of the sallyport area, which momentarily took them out of Inmate [redacted] view. Inmate [redacted] dropped the phone and went to watch the altercation. By the time he reached the "B/D" row side, he saw the two individuals on the floor still wrestling. He also noticed the booth deputy was talking on the telephone. Believing the deputy was requesting assistance, Inmate [redacted] returned to the phone and continued his conversation.

Approximately 2 to 3 minutes later, the front module gate opened and ten to fifteen uniformed deputies entered, ran past Inmate [redacted], and assisted Deputy Kluth. The deputies were described as male whites and Hispanics, NFD. Inmate [redacted] dropped the telephone and entered the laundry room to avoid the deputies and to monitor the incident. He watched the altercation for a few seconds and then a deputy ordered him to turn around and face the wall. The deputy was described as a male white, early 30's, 5'7", 170-200 lbs., short flat top hairstyle, blond in color, and a thick mustache. While the deputy was not paying attention, Inmate [redacted] turned around and continued to watch the scuffle. He did so, twice, for approximately fifteen to thirty seconds each time. On both occasion he saw some deputies attack [redacted] They surrounded [redacted] and kicked, punched, and struck him with their flashlights. Inmate [redacted] was unable to identify exactly where each blow landed, but believed [redacted] was struck from his waist area and above. Also, Inmate [redacted] was unable to positively identify the participating deputies, because of the short time he had actually witnessed the incident.

In addition, Inmate [redacted] said he saw the booth deputy open the door and tell another deputy "Get you some." The deputy replied "No, it's already under control." The booth deputy then stated "Then come cover the booth so I can get me some." The two deputies relieved each other and the booth deputy joined the group of other deputies. Inmate [redacted] returned to the wall and did not see what, if anything, the booth deputy did. The relief deputy was described as a male white, late 20's, 6'1", 150 - 170 lbs., with black or dark brown short combed-back hairstyle. Inmate [redacted] thought the deputy possibly worked on the 9000 floor.

Inmate [redacted] further said while facing the wall, he heard a male (possibly [redacted] scream "Okay! Okay! I'm down. I'm down." Then he heard someone yell profanities and a person being hit. He knew someone had been assaulted because the person made sounds which were consistent with being hit.

Inmate [redacted] looked out of the laundry room and noticed the pay-phone was still off the hook and a deputy (same deputy that ordered him to face the wall) standing next to it. The receiver had been off the phone the entire time, allowing Mrs. [redacted] to hear the disturbance. Inmate [redacted] asked the deputy to tell Mrs. [redacted] that he would call her back, which the deputy did.

Shortly thereafter, the incident concluded and the deputy asked the inmate if he had seen or heard the incident. He told the deputy that he had not seen or heard the altercation. Inmate [redacted] lied to the deputy to avoid any type of retribution and to protect his trusty status.

The deputy subsequently ordered Inmate [redacted] out of the laundry room and into the "C" row dayroom. He also told the inmate to keep his head turned toward the west wall to avoid seeing the group of deputies and [redacted] Inmate [redacted] complied with the deputy and went directly to the dayroom, where he met with Trusty [redacted]. Afterwards, the same deputy stood at the "C" row gate and called for the trusties. Both trusties responded and Inmate [redacted] was directed to clean-up the sallyport area. Inmate [redacted] noticed blood on the floor and walls, directly in front of the "B/D" row gates. Inmate [redacted] cleaned the area, placed the soiled towels in a plastic bag, and placed it in the 4000 floor elevator for disposal. Inmate [redacted] returned to the telephone and called his wife to tell her what had happened.

I asked Inmate [redacted] whether or not he had witnessed a deputy place handcuffs and/or hobble restraints on [redacted] He said that he could not remember seeing either item on [redacted]

Inmate [redacted] estimated the entire altercation lasted for approximately 5 to 8 minutes.

Note: This case was initially assigned to Sergeant John Nemeth, Internal Affairs Bureau, for an Administrative review. He interviewed (tape recorded) Inmate [redacted] and showed him six "Mug" Show-up folders (attached), depicting deputy personnel assigned to Custody Division. Inmate [redacted] identified the following deputies as either participants or possible participants:

- [redacted] (MCJ)
- HOYOS, Mark #[redacted] (SBI)
- KLUTH, David #[redacted] (MCJ)
- SLOAN, Gary #[redacted] (MCJ)
- AGUILAR, Alfred #[redacted] (SBI)
- [redacted] (MCJ)
- [redacted] (MCJ)

140

Deputy Mark Hoyos and Deputy Alfred Aguilar were assigned to Sybil Brand Institute and were not present during the altercation. The remaining 5 deputies were assigned to Men's Central Jail and were either present or arrived at the conclusion of the incident.

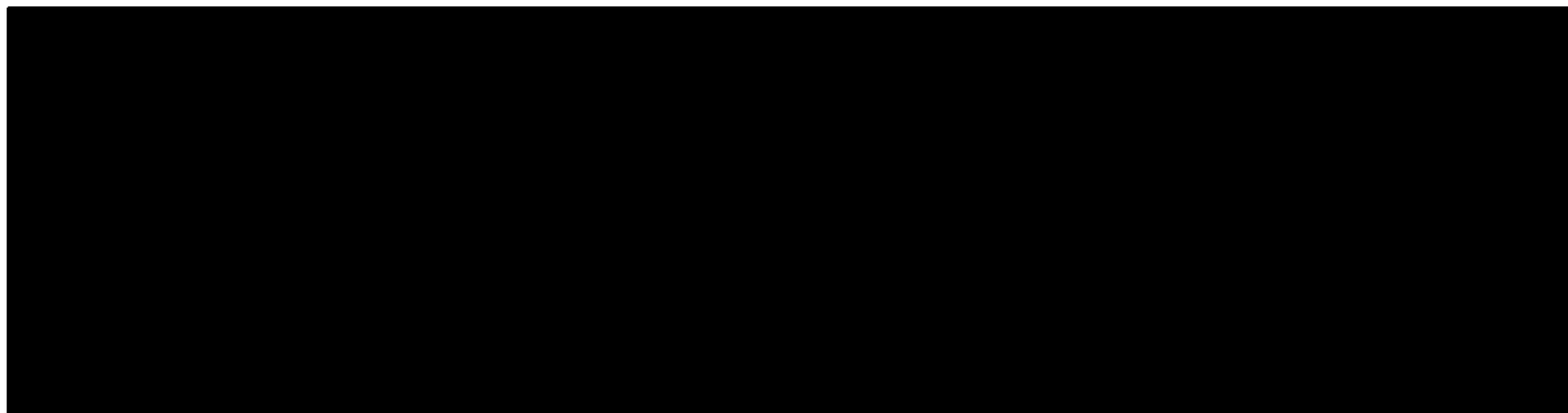
CONTENTS
A. ETZEL
NOTED

SERGEANT ERIC K. HAMILTON, EMP. [redacted]
INTERNAL CRIMINAL INVESTIGATIONS BUREAU
PROFESSIONAL STANDARDS AND TRAINING DIVISION

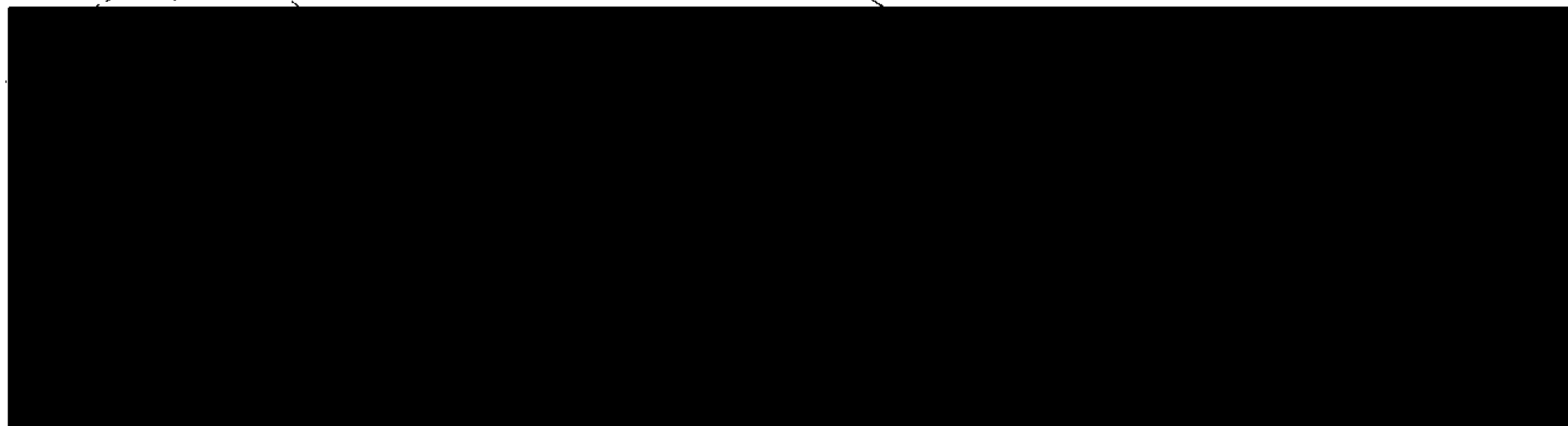
APPROVED BY: *Gerald Barnett* DATE: *1-19-95*

[redacted] "MUG" SHOW-UP FOLDER

A


[redacted]

1 2 3


[redacted]

4 5 6

[redacted] 11·17·94

142

4-SH-CR-574- 8/87

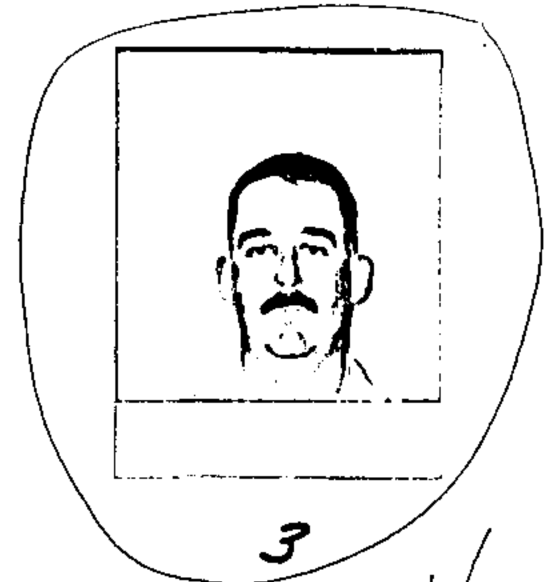
I THINK THESE TWO PHOTO'S LOOK LIKE THE PARTY THAT WERE THERE THE NITE OF THE INCIDENT.

"MUG" SHOW-UP FOLDER

B

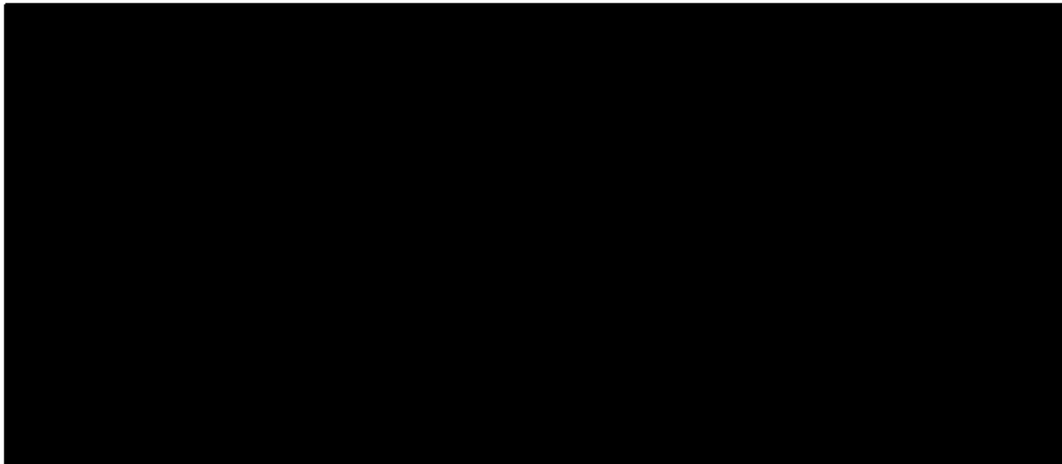
[redacted]

1 2



3

DEPUTY KLUTH!
HE'S THE ONE THAT WAS IN COMBAT WITH THE INMATE AT FIRST, I SAW HIM HIT THE INMATE WITH HIS FIST. [redacted]

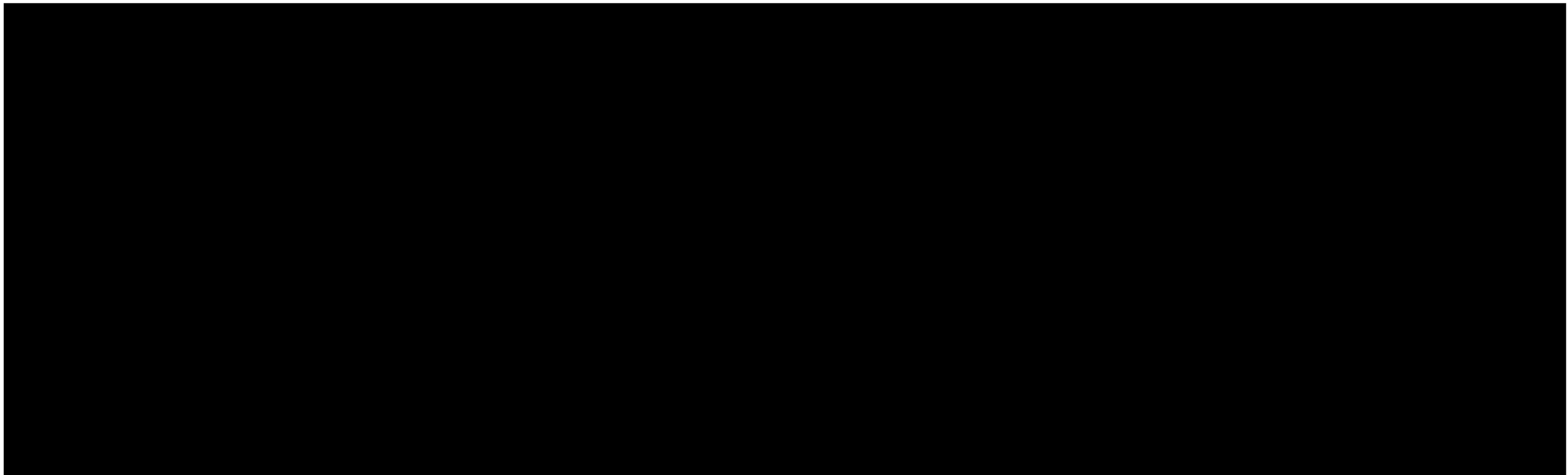

[redacted]

[redacted]

4 5 6

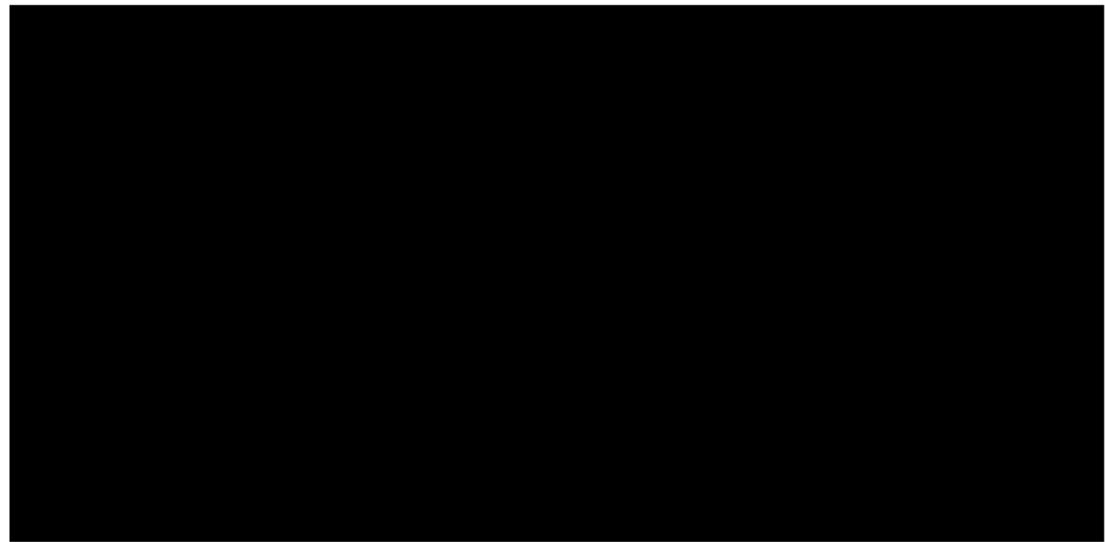
143

"MUG" SHOW-UP FOLDER



1 2 3

4



5 6

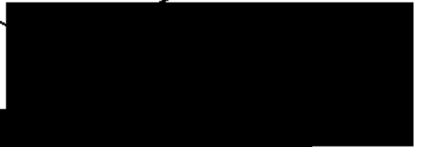
HE WAS THERE
BUT I DIDN'T SEE HIM
HIT THE GUY. [redacted]

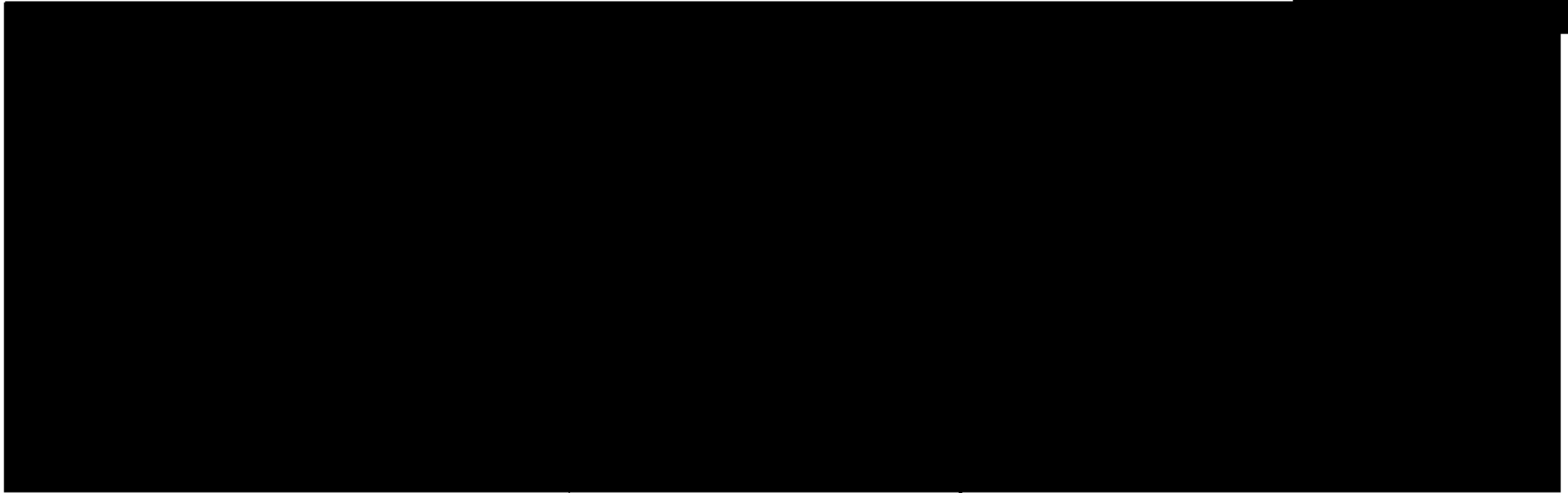
SM724-SH-CR-574 8/87

"MUG" SHOW-UP FOLDER

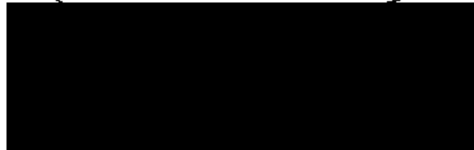
[redacted]

1 2 3


[redacted]


[redacted]

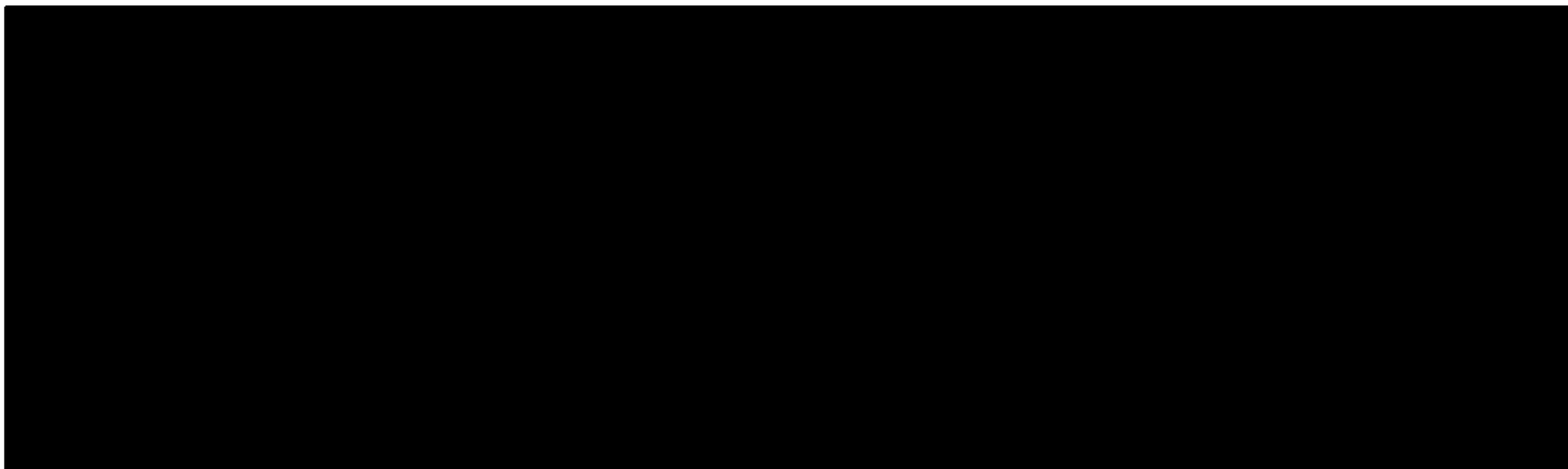
4 5 6


[redacted]

145

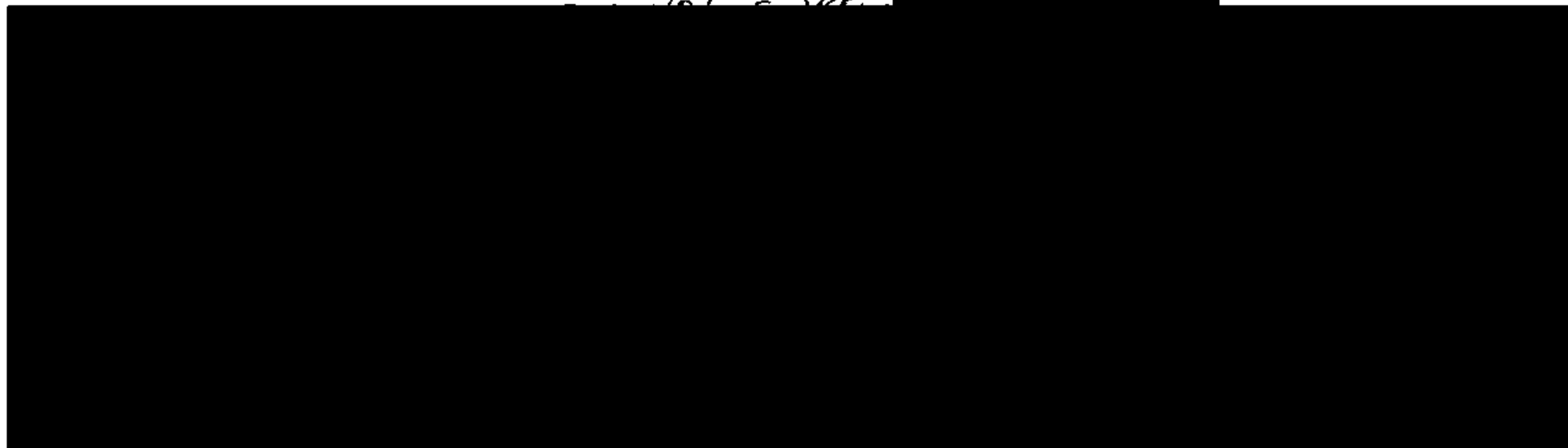
"MUG" SHOW-UP FOLDER

E


[redacted]

1 2 3

HE LOOK LIKE SOMEONE
THAT WAS THERE, BUT
[redacted]


[redacted]

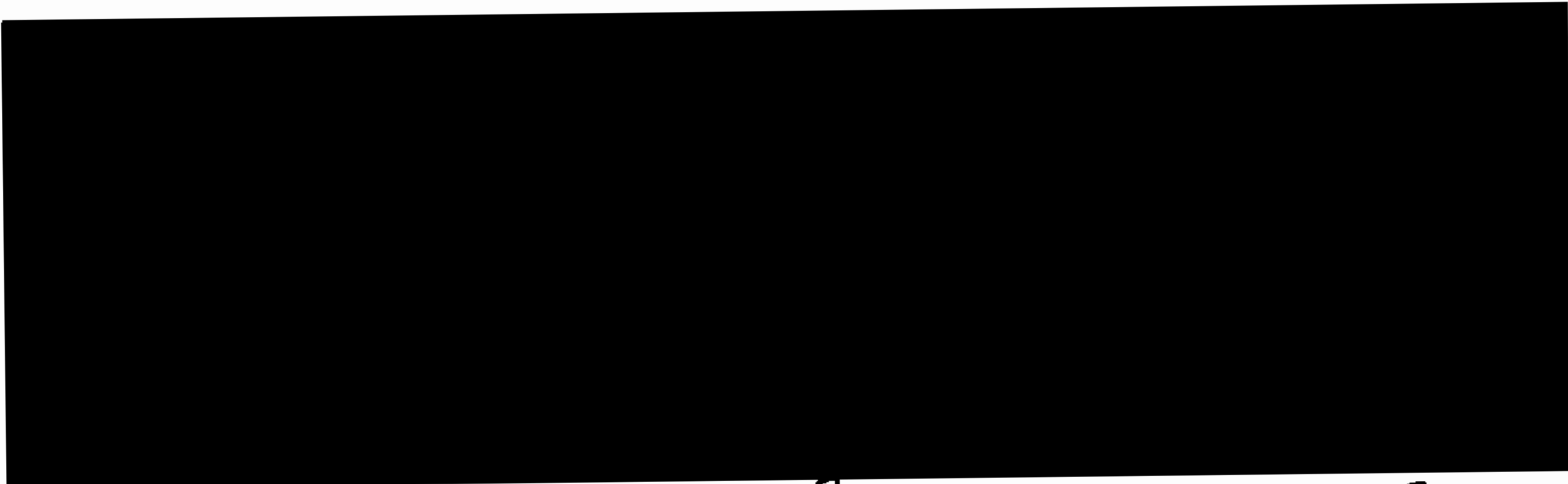
4 5 6

9/16

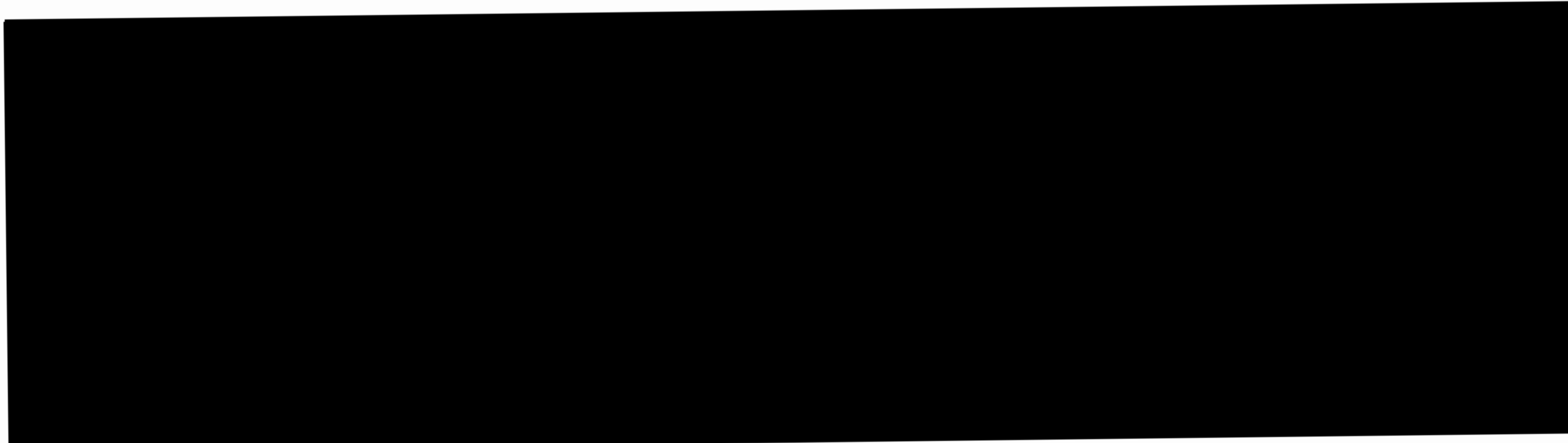
M724-SH-CR-574 6/87

MUG SHOW-UP FOLDER

F.



1 2 3



4 [redacted] 5 6

COULD NOT I.D. ANYONE

LH

COUNTY OF LOS ANGELES - SHERIFF'S DEPARTMENT

SUPPLEMENTARY REPORT

Date: January 14, 1995 **File No:** 494-00023-2300-444

C- Suspicious Circumstances, Possible Assault Under the Color of Authority, 149 PC

Action Taken: Active/ Additional Information

V- N/A

I- [redacted], MB/A, Booking No. [redacted]

W- [redacted] (Booked as [redacted]), MW/A, Booking No. [redacted], [redacted], Phone No. [redacted]

D- October 27, 1994, at approximately 0030 hrs.

L- Men's Central Jail, Module 4400

S- N/A

On December 27, 1994, at approximately 1126 hrs., I interviewed Trusty [redacted] at Men's Central Jail. The interview was tape recorded.

Inmate [redacted] said that on October 27, 1994, at approximately 2400 hrs., he was cleaning "D" row (Module 4400) when he heard the booth deputy (male white, 5'8" to 5'10", possibly light brown hair - later identified as Deputy David Kluth [redacted]) on the public address system. The deputy repeatedly instructed a roaming inmate to either return to his cell or the shower area, but the inmate failed to do so. Instead, he continued to walk on "B" row.

Later, Inmate [redacted] saw Deputy Kluth exit the booth and order the inmate (later identified as [redacted] off the row and into the sallyport area, where he was placed against the west wall. They stood just outside the laundry-room with [redacted] hands high on the wall, his feet apart, and Deputy Kluth standing behind him. They engaged in a conversation and then Inmate [redacted] turned away and resumed cleaning the row. At the time, Inmate [redacted] was standing on "D" row, between the shower gate and the top of the stairs (approximately 25' from the deputy and [redacted]

Moments later, Inmate [redacted] heard a commotion, turned toward the sallyport area, and saw Deputy Kluth and [redacted] wrestling.

Inmate [redacted] approached the top of the stairs and watched the altercation unfold. The combatants struggled from the west side to the east side of the sallyport, bouncing off the "D" row gate, shower bars, and the utility closet wall. They eventually fell to the floor, directly in front of the utility closet. They landed on their sides, facing each other.

As Deputy Kluth and [redacted] fell, the main gate opened and approximately three (3) uniformed deputies entered to help Deputy Kluth. Inmate [redacted] described the deputies as one male black or Hispanic, and two male whites, NFD. The deputies immediately surrounded [redacted] and separated him from Deputy Kluth. Inmate [redacted] could not explain how the deputies accomplished the separation. A deputy saw Inmate [redacted] and ordered him to leave, which he did. He went to either cell D-9 or D-10, sat on the floor, to talk to Inmate [redacted].

Note: I reviewed the "Inmate Inventory" sheet for the 26th of October (PM shift) and discovered there wasn't an inmate by the name of [redacted] assigned to the module. However, there was a [redacted] assigned to cell D-10.

While talking to Inmate [redacted], Inmate [redacted] saw other deputies (unknown number) enter and exit the module. He stood up and saw a deputy, standing in front of the utility closet, making kicking motions toward the row gates. The deputy was described as a male white, 5'8" to 5' 10", 170 to 180 lbs., light brown - medium length hair. Each time the deputy made the kicking motion, Inmate [redacted] heard another person being struck; this caused him to believe the deputy had kicked [redacted] Inmate [redacted] said he could not see whether or not the deputy's kicks had actually struck [redacted] nor could he see if [redacted] was handcuffed or somehow restrained by the deputies. The noise and activity subsided, so Inmate [redacted] went to the "D" row stairs to determine what had happened.

He saw [redacted] laying on his back, with his hands behind him and feet bent towards his back, and three deputies standing in a semi-circle around him. Although handcuffs and leg restraints were not seen, Inmate [redacted] believed [redacted] was "hogtied." He based his opinion on the manner in which [redacted] hands and feet were positioned. Inmate [redacted] also saw a pool of blood on the floor, but he did not know who it had come from. A deputy (male, possible Hispanic, with black hair, NFD) saw Inmate [redacted] and told him to leave. He returned to [redacted] cell.

Inmate [redacted] talked to Inmate [redacted] for 5 to 10 minutes and then returned to the row gate, where he found Trusty [redacted] (Booking No. [redacted]) cleaning. Inmate [redacted] joined Trusty [redacted] and they cleaned the sallyport area. They completed the task and placed the soiled towels in the 4000 floor elevator for disposal.

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An hour later, two uniformed deputies entered the module and asked Inmate [redacted] and Inmate [redacted] if they had seen the incident. Both inmates denied seeing the disturbance. The deputies ascertained the inmates names and left. Inmate [redacted] described one deputy as a male Hispanic, 6', mustache, and short hair, NFD. He was unable to describe the second deputy.

Inmate [redacted] said there were possibly three additional inmate witnesses to the incident. He provided a brief description of each inmate and I identified them as being [redacted], [redacted] and [redacted]

Sergeant Eric K. Hamilton, Emp. [redacted]
Internal Criminal Investigations Bureau
Professional Standards and Training Division

Approved By: [signature] Date: 1-19-95

150

COUNTY OF LOS ANGELES - SHERIFF'S DEPARTMENT

SUPPLEMENTARY REPORT

Date: January 12, 1995

File No: 494-00023-2300-444

C- Suspicious Circumstances, Possible Assault Under the Color of Authority, 149 PC

Action Taken: Active/ Additional Information

V- N/A

I- [redacted], MB/A, Booking No. [redacted]

W- [redacted] (Booked as [redacted]), MW/A, Booking No. [redacted]

D- October 27, 1994, at approximately 0030 hrs.

S- N/A

On October 27, 1994, Inmate [redacted] witnessed an altercation in Module 4400, at Men's Central Jail. The incident involved deputy personnel assigned to the facility and Inmate [redacted]

On January 12, 1995, at approximately 1720 hrs., I contacted Inmate [redacted] and presented ten "Mug" Show-up folders (A thru J), depicting deputy personnel assigned to Custody Division. The purpose of the show-up was to identify deputies who were participants in the altercation. The inmate reviewed each folder and could not identify any deputy (refer to attachments).

CONTENTS
A. ETZEL
NOTED

Sergeant Eric K. Hamilton, Emp. [redacted]
Internal Criminal Investigations Bureau
Professional Standards and Training Bureau

Approved By: [signature] **Date:** 1/18/95

151

YOU WILL BE ASKED TO LOOK AT A GROUP OF PHOTOGRAPHS. THE FACT THAT THE PHOTOGRAPHS ARE SHOWN TO YOU SHOULD NOT INFLUENCE YOUR JUDGMENT. YOU SHOULD NOT CONCLUDE OR GUESS THAT THE PHOTOGRAPHS CONTAIN THE PICTURE OF THE PERSON WHO COMMITTED THE (ALLEGED) CRIME. YOU ARE NOT OBLIGED TO IDENTIFY ANYONE. IT IS JUST AS IMPORTANT TO FREE INNOCENT PERSONS FROM SUSPICION AS TO IDENTIFY GUILTY PARTIES. PLEASE DO NOT DISCUSS THE CASE WITH OTHER WITNESSES NOR INDICATE IN ANY WAY THAT YOU HAVE IDENTIFIED SOMEONE.

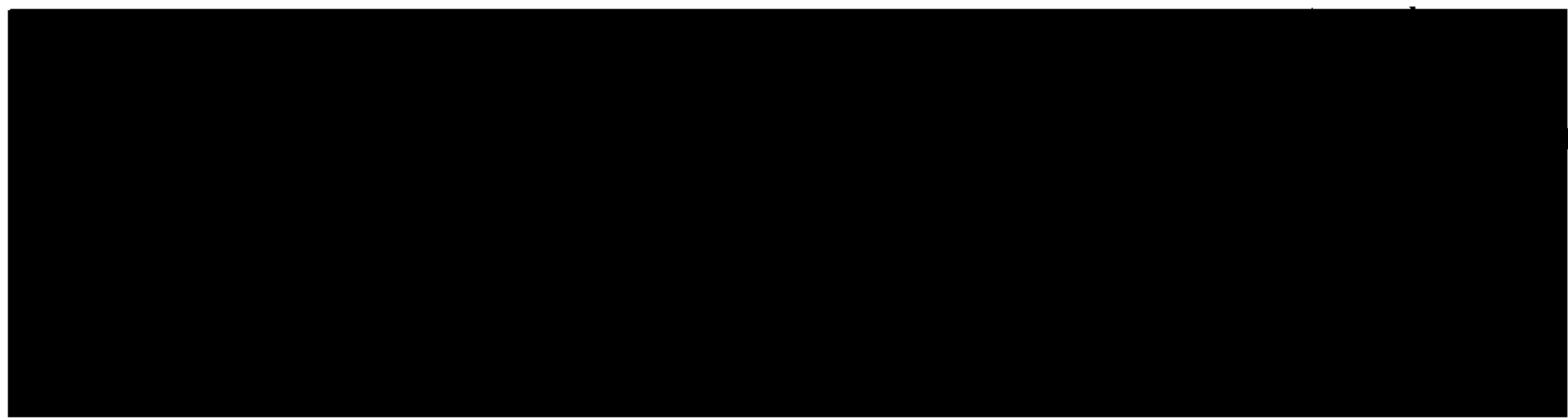
I HEREBY [redacted] THE ABOVE PARAGRAPH AND FULLY UNDERSTAND ITS CONTENTS ______________ DATE 2-12-95 # [redacted]

Sgt Eric K. Ham[redacted], 1720 Hrs.

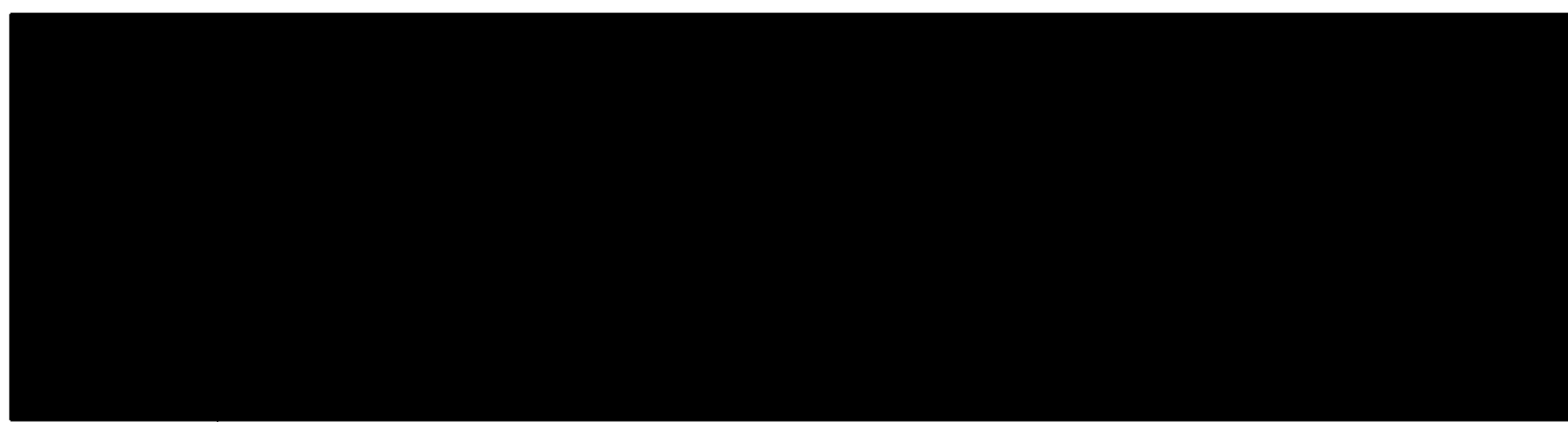
A

"MUG" SHOW-UP FOLDER

UNABLE TO IDENTIFY



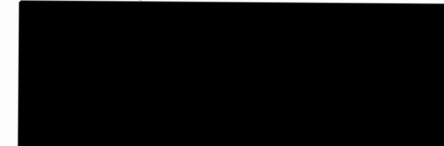
1 2 3



5 6

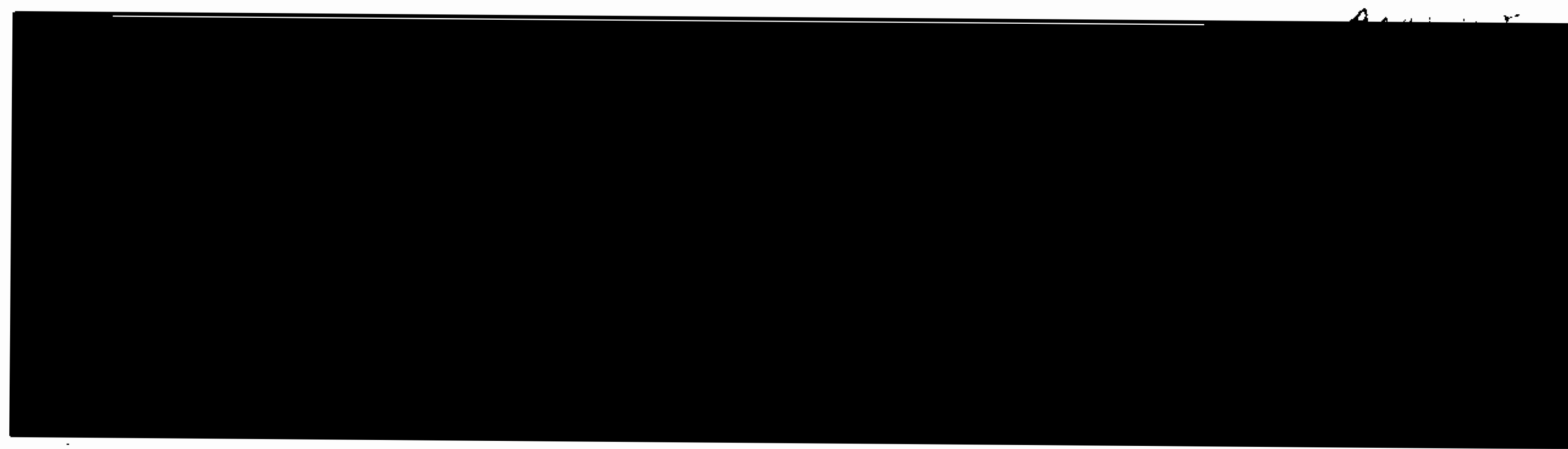
53

1-12-3-B


[redacted]

"MUG" SHOW-UP FOLDER

UNABLE TO IDENTIFY


[redacted]

1 2 3

[redacted]

4 5

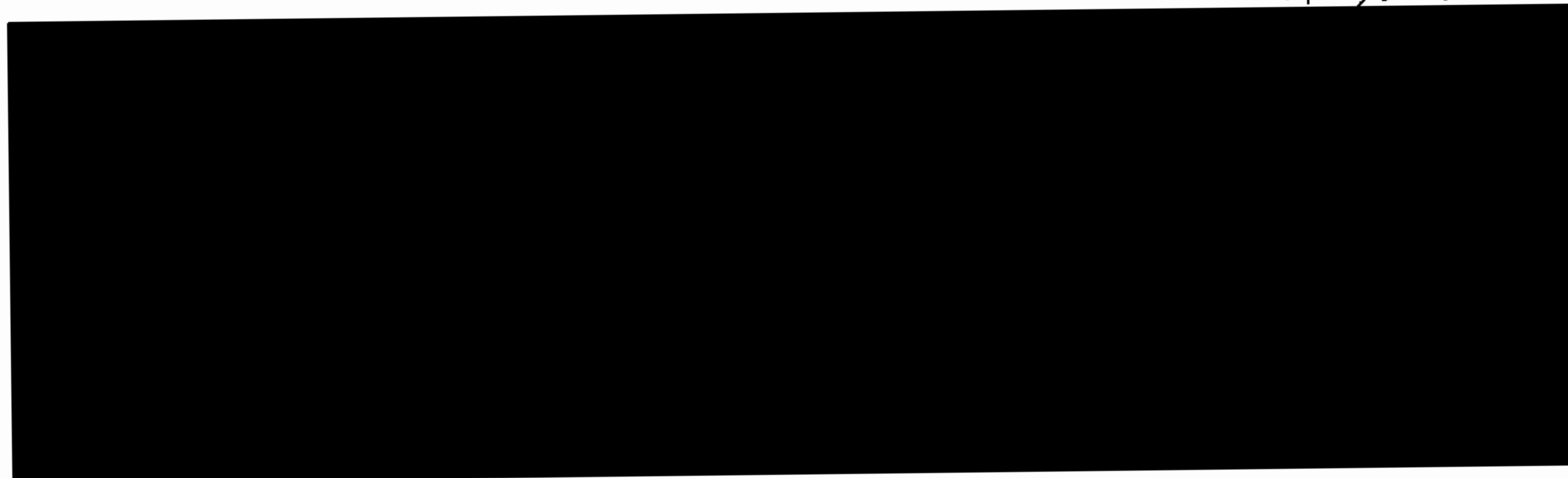
154

1-1295 C

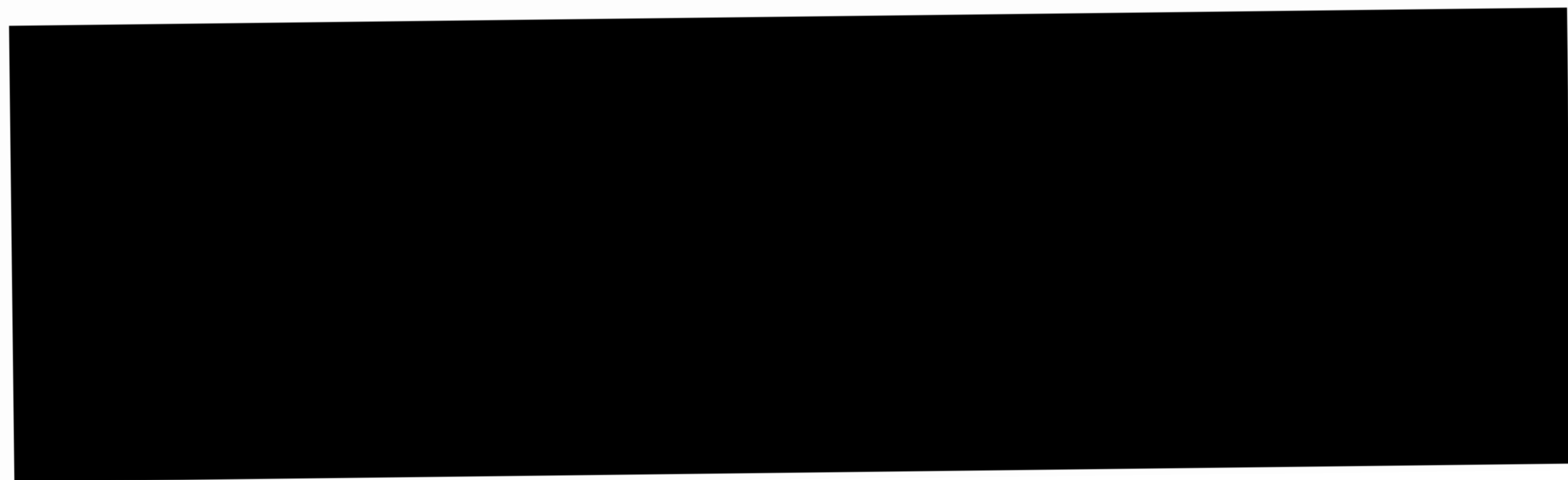
[redacted]

UNABLE TO IDENTIFY ANYONE

"MUG" SHOW-UP FOLDER



1 2 3



57

11295-D

[redacted]

"MUG" SHOW-UP FOLDER

UNABLE TO IDENTIFY
Anyone

[redacted]

1 2 3

[redacted]

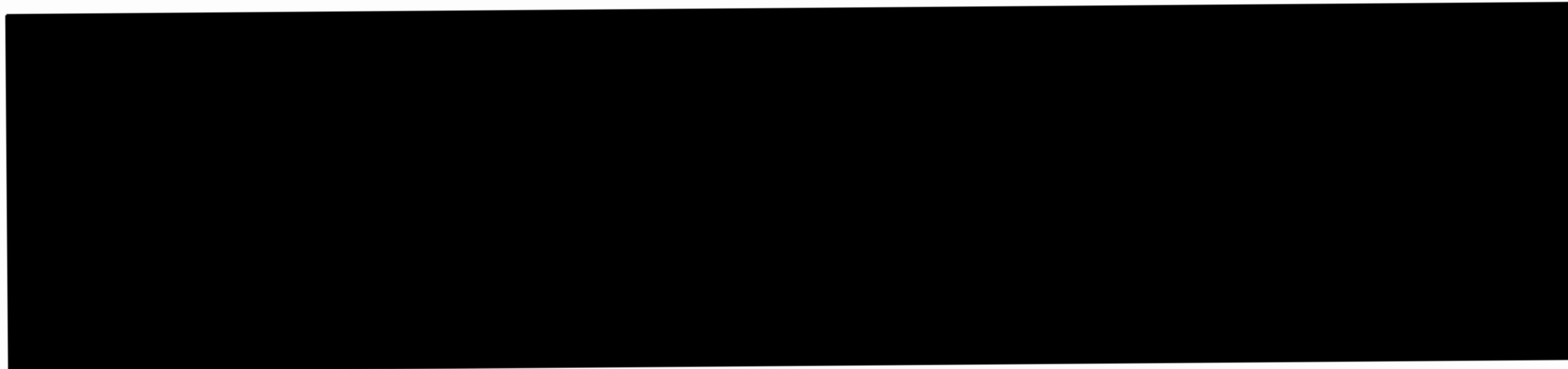
251

112 955 E

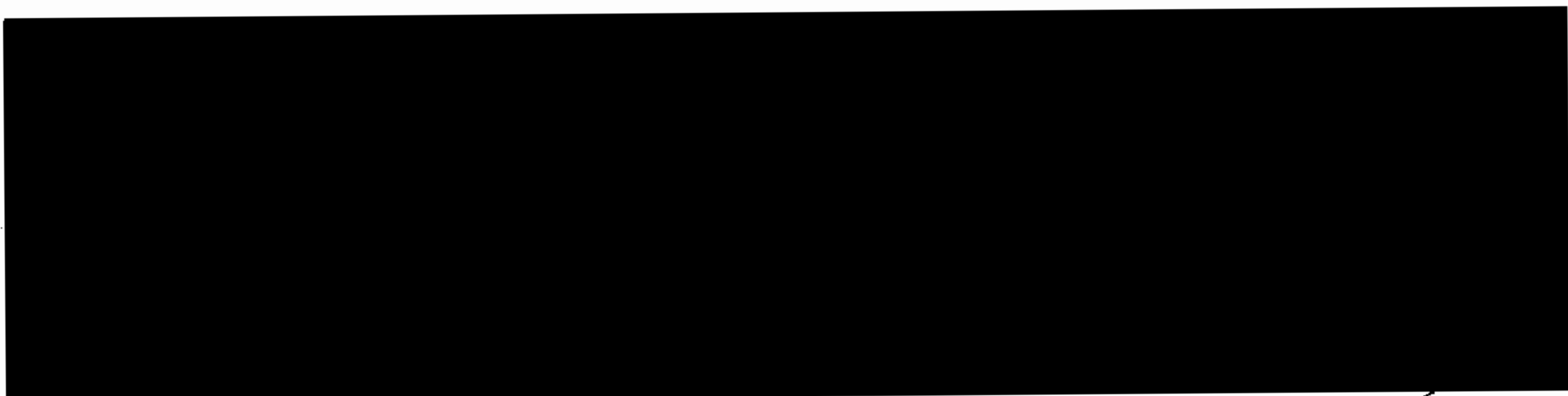
[redacted]

ANY ONE

"MUG" SHOW-UP FOLDER



1 2 3



4 5 6

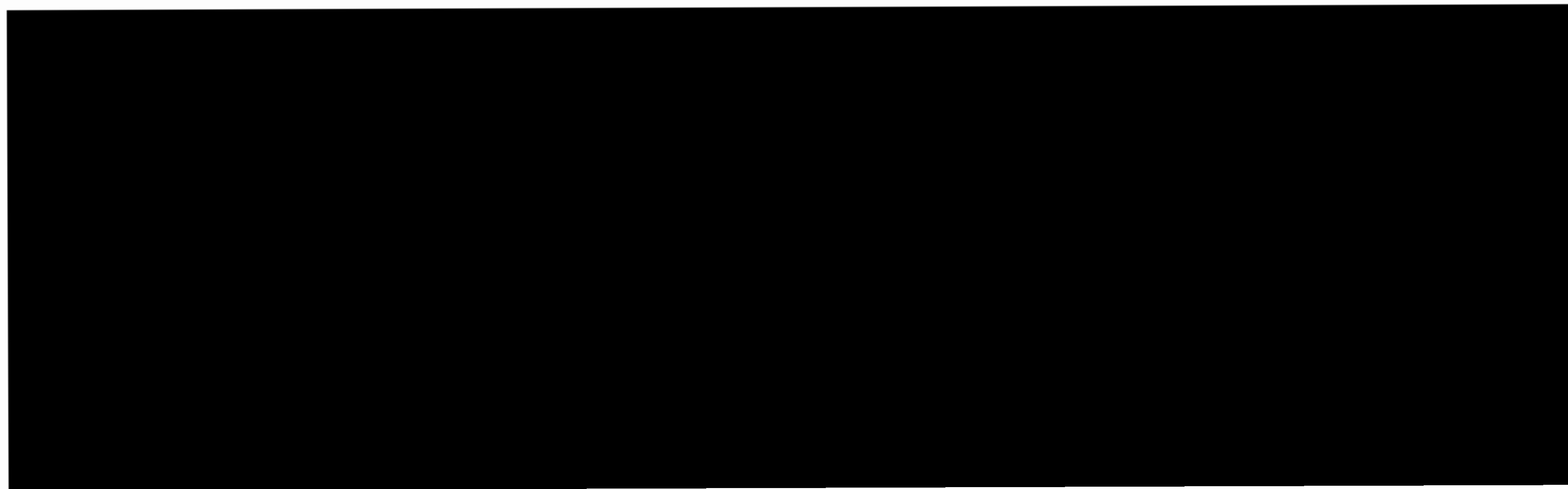
1-12-95
F

[redacted]

Unable to identify
Anyone

"MUG" SHOW-UP FOLDER

[redacted]


[redacted]

158

G

[redacted]

Anyone

"MUG" SHOW-UP FOLDER

[redacted]

1 2 3

[redacted]

159

7-12-75 H

[redacted]

UNABLE TO IDENTIFY ANYONE

"MUG" SHOW-UP FOLDER

[redacted]

1 2 3

[redacted]

4 5 6

18

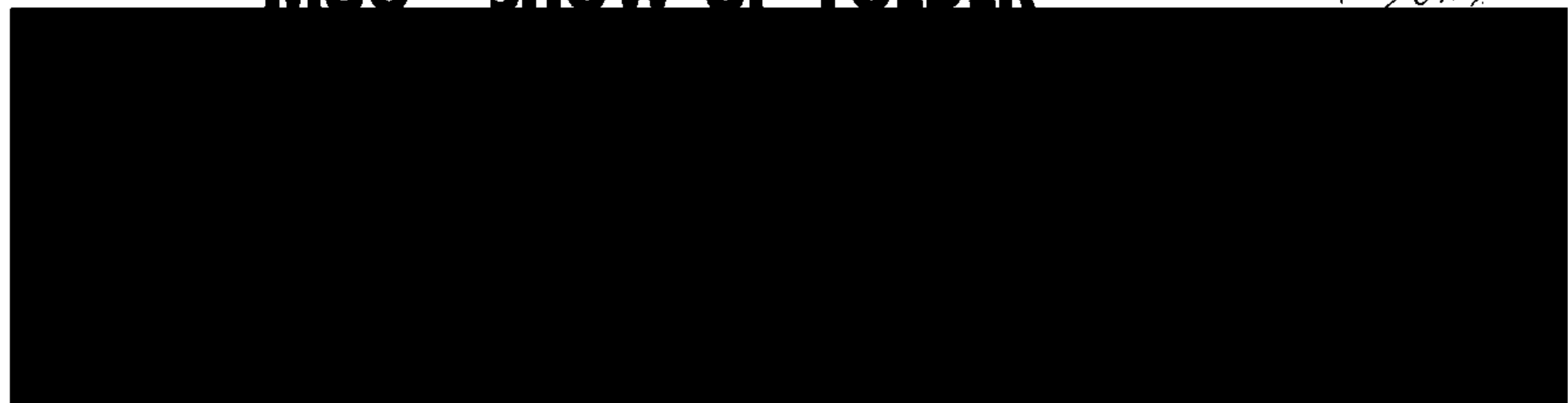
1

1-12-95

[redacted]

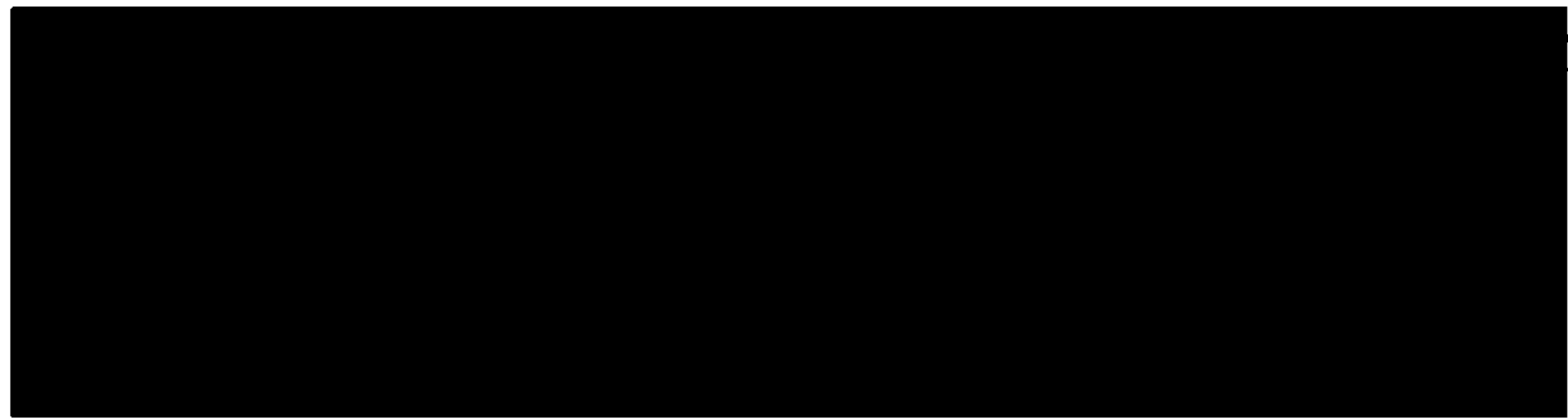
Unable to identify anyone

"MUG" SHOW-UP FOLDER



[redacted]

1 2 3



[redacted]

4 5 6

191

1-12-93 J

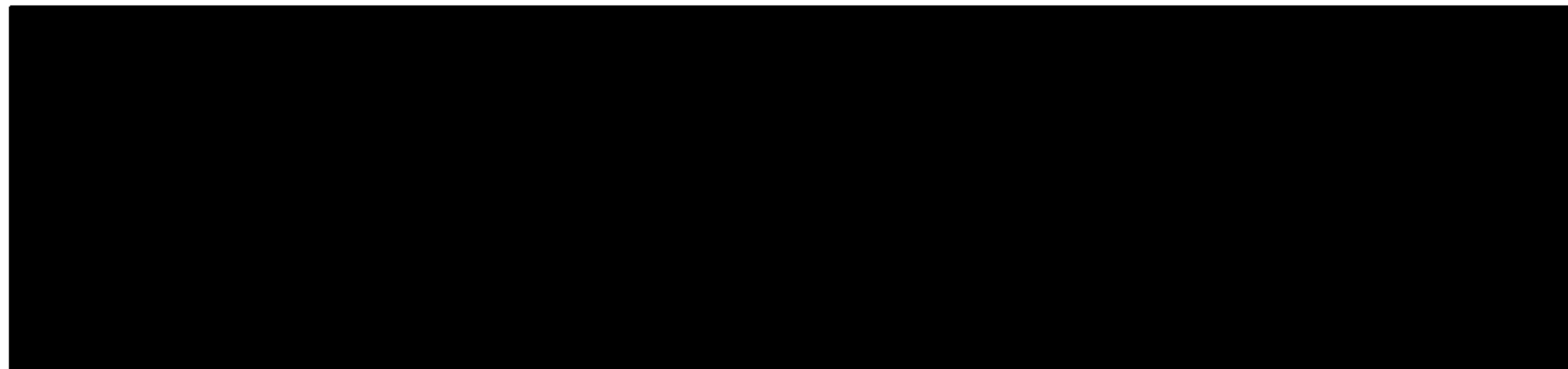
[redacted]

Unable To Identify Anyone

"MUG" SHOW-UP FOLDER

[redacted]

1 2 3


[redacted]

291

5 6

COUNTY OF LOS ANGELES - SHERIFF'S DEPARTMENT

SUPPLEMENTARY REPORT

Date: February 24, 1995 **File No:** 494-00023-2300-444

C- Suspicious Circumstances, Possible Assault Under the Color of Authority, 149 PC

Action Taken: Active/ Additional Information

V- N/A

I- [redacted], MB/A, Booking No. [redacted]

W- [redacted], MB/A, Booking No. [redacted]
[redacted], MW/A, Booking No. [redacted]

D- October 27, 1994, at approximately 0030 hrs.

L- Men's Central Jail, Module 4400

S- N/A

On February 21, 1995, between 1124 hrs. and 1155 hrs., Sergeant Ronald Bell and I interviewed Inmate [redacted] and Inmate [redacted], at Men's Central Jail, regarding the alleged criminal misconduct by sworn personnel. The interviews were tape recorded (used one tape).

<u>Inmate [redacted] Statement</u>

Inmate [redacted] said that on October 27, 1994, he was housed in module 4400, cell B-6, and did not see or hear any altercation. However, he added that at approximately 0100 hrs., he went to the clinic for his medication and subsequently saw another inmate from his module being wheeled into the clinic on a gurney. The inmate was bleeding from an apparent head injury and screaming for someone to call his mother. Inmate [redacted] returned to his module and learned of an altercation between an inmate and deputy personnel.

<u>Inmate [redacted] Statement</u>

Inmate [redacted] said that on October 27, 1994, he was housed in module 4400, cell B-6, and did not see or hear any altercation between an inmate and deputy personnel.

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Note: At the time of the above interviews, the majority of inmates that were housed in module 4400, "B" row, on October 27, 1994, had either been released from custody or sent to a state penal institution. The "B" row inmates were better positioned to have seen the alleged criminal misconduct by the deputies. Those inmates who remained in the county jail system and housed in the cells with the greatest vantage point were interviewed.

Sergeant Eric K. Hamilton, Emp. [redacted]
Internal Criminal Investigations Bureau
Professional Standards and Training Division

Approved By: ____________________ **Date:** ____________________

COUNTY OF LOS ANGELES - SHERIFF'S DEPARTMENT

SUPPLEMENTARY REPORT

Date: February 24, 1995 | **File No:** 494-00023-2300-444

C- Suspicious Circumstances, Possible Assault Under the Color of Authority, 149 PC

Action Taken: Active/ Additional Information

V- N/A

I- [redacted], MB/A, Booking No. [redacted]

W- [redacted], MB/19, Booking No. [redacted]

D- October 27, 1994, at approximately 0030 hrs.

L- Men's Central Jail, Module 4400

S- N/A

On February 23, 1995, at approximately 1125 hrs., I interviewed Inmate [redacted], at North County Correctional Facility, regarding an allegation of criminal misconduct by sworn personnel. The interview was tape recorded.

Inmate [redacted] said that on October 27, 1994, during the early morning shift, he was housed at Men's Central Jail in module 4400, cell B-5. He said that he heard a commotion and went to his cell gate and noticed two to three uniformed deputies standing just outside the row gate. They had their backs turned towards the row and were punching and kicking at an unidentified person. The inmate did not see where the strikes were landing or who the recipient was. Thirty to forty seconds later, the inmate stepped away from the gate and provided his cellmate (unknown) an opportunity to view the action.

Inmate [redacted] said that a few minutes later, he returned to his cell gate and noticed the incident had ended and all participants were gone.

Note: Although Inmate [redacted] was unable to identify the participating deputy personnel, he did believe they were all males. He based his opinion on their body composition.

Sergeant Eric K. Hamilton, Emp. [redacted]
Internal Criminal Investigations Bureau
Professional Standards and Training Division

Approved By: ______________________ **Date:** ____________________

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COUNTY OF LOS ANGELES - SHERIFF'S DEPARTMENT

SUPPLEMENTARY REPORT

Date: January 5, 1995

File No: 494-00023-2300-444

C- Suspicious Circumstances, Possible Assault Under the Color of Authority, 149 PC

Action Taken: Active/ Additional Information

V- N/A

I- [redacted] MB/A, Booking No. [redacted]

W- Deputy Cesar Romero, Emp. [redacted], Men's Central Jail

D- October 27, 1994, at approximately 0030 hrs.

L- Men's Central Jail, Module 4400

S- N/A

On December 7, 1994, at approximately 0049 hrs., Sergeant Ron Bell and I interviewed Deputy Cesar Romero, at Men's Central Jail regarding an altercation between Inmate [redacted] and deputy personnel assigned to the facility. The interview was tape recorded.

Deputy Romero said that on October 27, 1994, while assigned to the 9000 floor (EM shift), he heard a disturbance call and went to assist. He, along with Deputies Richard Barrett [redacted], John Broad [redacted], and Todd Kammer [redacted], left the 9000 floor and went to module 4400 where the incident was located. Deputy Barrett held the door open while the other three deputies entered. Deputy Romero saw three other deputies struggling with a handcuffed inmate (later identified as [redacted] by the "B/D" row gates. The inmate was laying on his stomach "squirming" around on the floor, while the deputies were trying to control him. Deputy David Kluth ([redacted]) held the inmate's upper torso down while Deputy [redacted] ([redacted]) and Deputy [redacted] ([redacted]) held his mid-section and legs, respectively. As Deputy Romero entered the module, Deputy Gary Sloan ([redacted]) asked him to relieved him in the booth so he (SLOAN) could assist with the inmate. Deputy Romero did so and watched the incident from the booth door.

Deputy Sloan and Deputy [redacted] grabbed the inmate's legs and positioned them to be hobbled.

The hobble restraint was applied to the inmate's feet and he was then placed on his side. Deputy Romero could not remember who applied the restraints, but he believed it was Deputy Kluth. Afterwards, Deputies Kluth and Sloan entered the booth and talked while Deputies [redacted] and [redacted] rested in the sallyport area.

Deputy Romero said that Deputies Barrett, Broad, and Kammer just watched the entire event, they never participated. Deputies Broad and Kammer stood in the middle of the sallyport area, a few feet in front of the main module door, and Deputy Barrett maintained his position at the module door.

Deputy Romero noticed that the inmate had suffered a head or facial injury and was bleeding. There was also blood on the floor. The inmate did not appear to be in much pain. The majority of the time he laid quietly on the floor. In addition, Deputy Romero said he saw a person standing in the "B" row shower during the incident. He described the individual as a male black, NFD, but he was not certain.

Deputy Romero said that he did not, at any time, see any deputy punch, kick, or strike the inmate with any impact weapon, or did he assault the inmate.

Deputy Romero estimated that he was in module 4400 for about five (5) minutes.

Note: On January 30, 1995, at approximately 2334 hrs., Sergeant Ron Bell and I re-interviewed Deputy Romero, at MCJ, to determine if he had any additional information regarding the incident. His statement was essentially the same as the first (tape available).

CONTENTS
A. ETZEL
NOTED

Sergeant Eric K. Hamilton, Emp. [redacted]
Internal Criminal Investigations Bureau
Professional Standards and Training Division

Approved By: Gerald Barnes Lt. **Date:** 2-7-95

COUNTY OF LOS ANGELES - SHERIFF'S DEPARTMENT

SUPPLEMENTARY REPORT

Date: January 31, 1995 **File No:** 494-00023-2300-444

C- Suspicious Circumstances, Possible Assault Under the Color of Authority, 149 PC

Action Taken: Active/ Additional Information

V- N/A

I- [redacted], MB/A, Booking No. [redacted]

W- Deputy Richard Barrett, Emp. [redacted]

D- October 27, 1994, at approximately 0030 hrs.

L- Men's Central Jail, Module 4400

S- N/A

On December 6, 1994, at approximately 2356 hrs., Sergeant Ronald Bell and I interviewed Deputy Richard Barrett, at Men's Central Jail (MCJ), regarding an altercation between Inmate [redacted] and deputy personnel. The interview was tape recorded.

Deputy Barrett said that on October 27, 1994, he was assigned to the 9000 floor (EM shift) when he heard an "all call", via the public address system, announcing a deputy involved disturbance. Initially, he was uncertain where the disturbance was located but eventually discovered it was in module 4400. He entered the module and saw two deputies (David KLUTH and Gary SLOAN) and an inmate near the B/D row gates. The inmate was hobbled and the deputies were kneeling next to him. The altercation seemed to have concluded just prior to Deputy Barrett's arrival, because the two deputies were breathing rapidly. He determined that the incident was essentially stabilized so he stood by the main module door, for approximately one minute, and then returned to the 9000 floor to resume his work. He estimated that he was in the module for no more than two minutes.

Deputy Barrett said that he saw Deputy Cesar Romero (9000 floor deputy), in module 4400, standing by the booth door watching the incident. He also thought there were additional deputy personnel present, but he was unable to recall their identities.

In addition, Deputy Barrett said that he saw two inmates who were possible witnesses to the confrontation. The first inmate was standing in the "B" row showers and was described as a male white, 25 to 26. The second inmate was located in the laundry room, next to the main module door, and was described a male black, 6' to 6'1", wearing a blue jumpsuit. Both inmates were positioned to see the entire the incident. My investigation revealed the inmates were [redacted] and [redacted].

Deputy Barrett said that he did not participate in the incident, nor did he see any deputy punch, kick, or strike the hobbled inmate with any impact weapon.

Note: On January 31, 1995, Sergeant Ron Bell and I re-interviewed Deputy Barrett, at MCJ, to determine if he had any additional information regarding the incident. His statement was essentially the same as the first (tape available).

CONTENTS A. ETZEL NOTED

Sergeant Eric K. Hamilton, Emp. [redacted]
Internal Criminal Investigations Bureau
Professional Standards and Training Division

Approved By: Sewell Barnes Lt. **Date:** 2-7-95

COUNTY OF LOS ANGELES - SHERIFF'S DEPARTMENT

SUPPLEMENTARY REPORT

Date: January 5, 1995

File No: 494-00023-2300-444

C- Suspicious Circumstances, Possible Assault Under the Color of Authority, 149 PC

Action Taken: Active/ Additional Information

V- N/A

I- [redacted], MB/A, Booking No. [redacted]

W- Deputy Todd Kammer, Emp. [redacted], Men's Central Jail

D- October 27, 1994, at approximately 0030 hrs.

L- Men's Central Jail, Module 4400

S- N/A

On December 20, 1994, at approximately 0103 hrs., I interviewed Deputy Todd Kammer, at Men's Central Jail, regarding an altercation between Inmate [redacted] and deputy personnel assigned to the facility. The interview was tape recorded.

Deputy Kammer said that on October 27, 1994, early morning shift, he was assigned as the 9000 floor roving deputy. During the shift 5000 floor personnel announced, over the public address system, a disturbance in module 4400. Deputy Kammer, along with Deputy John Broad ([redacted]) and Deputy Cesar Romero ([redacted] went to the module to provide assistance. They entered the module and saw three deputies (David Kluth [redacted], [redacted] and [redacted] struggling with a bloody, screaming inmate (later identified as [redacted] near the "B/D" row gates. As they entered, Deputy Sloan directed Deputy Romero to relieve him in the booth so he (SLOAN) could help subdue the inmate. Deputy Romero did so and watched the incident from the booth.

Deputy Kammer said that the inmate was laying face down and the deputies were attempting to control him. Deputies [redacted] and [redacted] were positioned on the inmate's left side trying to control the upper and lower torso areas, while Deputies Kluth and Sloan were positioned on the inmate's right side trying to control the upper and lower torso areas.

Deputy Kammer said that the inmate continued to resist the deputies by "squirming" around and attempting to get to his feet.

Deputies Kammer and Broad grabbed the inmate's feet and held them to the floor. They did not want the inmate to kick the other four deputies. The deputies got the inmate's hands behind his back and handcuffed him. Deputy Kammer could not remember which deputy actually handcuffed the inmate, but he thought it was possibly Deputy [redacted]. Once the handcuffs were on the inmate, Deputies [redacted] and Sloan took Deputies Kammer and Broad's positions at the inmate's legs. Deputies Kammer and Broad stood and they immediately noticed that Deputy Broad's finger had been injured and was bleeding. Deputy Kammer and Deputy Broad determined the incident was over, so they returned to the 9000 floor to treat Deputy Broad's injury and resume their work. As the two deputies were leaving Deputy Richard Barrett ([redacted]), 9000 floor personnel, had arrived. Deputies Barrett and Romero subsequently returned to the 9000 floor.

Deputy Kammer said that he did not see the inmate being hobbled. However, he later learned from Deputy Barrett that the inmate's legs were restrained shortly after his (Kammer) departure.

Deputy Kammer said that he did not assault the inmate nor did he see any other deputy punch, kick, or strike the inmate with any impact weapon.

Deputy Kammer said that the inmate had suffered a head/facial injury. Additionally, he said that he saw another inmate standing in the "B" row showers during the incident. He noticed the inmate because Deputy Sloan had ordered him to face the shower wall. The inmate was described as a male white, NFD. My investigation revealed the inmate was [redacted] (Bkg. [redacted]).

Sergeant Eric K. Hamilton, Emp. [redacted]
Internal Criminal Investigations Bureau
Professional Standards and Training Division

Approved By: Gerald Barnes Lt. **Date:** 2-7-95

COUNTY OF LOS ANGELES - SHERIFF'S DEPARTMENT

SUPPLEMENTARY REPORT

Date: January 31, 1995 **File No:** 494-00023-2300-444

C- Suspicious Circumstances, Possible Assault Under the Color of Authority, 149 PC

Action Taken: Active/ Additional Information

V- N/A

I- [redacted], MB/A, Booking No. [redacted]

W- Deputy John Broad, Emp. [redacted], (9000 floor prowler)

D- October 27, 1994, at approximately 0030 hrs.

L- Men's Central Jail, Module 4400

S- N/A

On December 21, 1994, at approximately 1118 hrs., I interviewed Deputy John Broad, at the Criminal Courts Building, regarding an altercation between Inmate [redacted] and deputy personnel assigned to Men's Central Jail. The interview was tape recorded.

Deputy Broad said that on October 27, 1994, while assigned to the 9000 floor (EM shift), he heard a yell or a faint announcement of a disturbance. He ran to the 9000 floor hallway to determine the source of noise, but did not see or hear any commotion. However, he did notice Deputy Todd Kammer [redacted] and Deputy Cesar Romero [redacted] (9000 floor personnel) run down the escalator, so he followed them. They ran from the 5000 floor to 4000 floor searching for the disturbance. The 4000 floor booth deputy (Carol Howard) advised three deputies that the disturbance was in module 4400. They entered the module and found three to four deputies struggling with an inmate near the "B/D" row gates. The inmate was laying on his stomach with the deputies laying across his body. Two deputies were positioned on the inmate's right side while the other one or two were on his left side. Deputy Broad could not remember which deputy was located on the victim's right or left.

Note: The deputies were identified as David Kluth [redacted], [redacted], [redacted] and Gary Sloan [redacted]. Deputy Broad was uncertain whether or not all four deputies were restraining the inmate when he arrived at the module.

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He seemed to think that there were only three deputies initially and then the fourth joined the group as the second wave of deputies (Broad's group) arrived.

Deputy Broad said that one of the four deputies repeatedly yelled at the inmate to place his hands behind his back. The inmate failed to comply and tried to roll on his side. The deputies got the inmate's left hand behind his back, but was unsuccessful with his right hand. The inmate had placed his right hand underneath his body. Deputy Broad and Deputy Kammer immediately grabbed the inmate's right and left lower legs, respectively, to prevent him from kicking the other deputies. They held onto the inmate's legs until the other deputies had restrained and handcuffed him. Deputy Broad did not know who had handcuffed the inmate. During the struggle Deputy Broad and Deputy Kammer had lifted and bent the inmate's legs to put them in a position to be hobbled. The handling deputies opted to merely handcuff the inmate at the time.

Deputy Broad eventually stood and noticed that his right index finger was bleeding. Once the incident was under control, Deputy Broad returned to the 9000 floor and treated his injury. He estimated that he was inside module 4400 for approximately one minute.

Deputy Broad said that he did not assault the inmate, nor did he see any other deputy punch, kick, or strike the inmate with any impact weapon. He did not see the deputy(s) place the hobble restraints on the inmate's legs. The application took place after he had left the module.

Deputy Broad said that Deputy Romero was positioned at or near the booth door during the entire incident. He never became involved in the actual altercation. Additionally, Deputy Broad said that he saw a male white inmate standing in the "B" row shower. My investigation revealed that the inmate was [redacted], Bkg.[redacted].

Sergeant Eric K. Hamilton, Emp. [redacted]
Internal Criminal Investigations Bureau
Professional Standards and Training Division

Approved By: Gerald Daines Lt. **Date:** 2-8-95

COUNTY OF LOS ANGELES - SHERIFF'S DEPARTMENT

SUPPLEMENTARY REPORT

DATE JANUARY 31, 1995 **FILE NO** 494-00023-2300-444

C- SUSPICIOUS CIRCUMSTANCES/ POSSIBLE ASSAULT UNDER THE COLOR OF AUTHORITY-149 P.C. **Action Taken** ACTIVE/ ADDITIONAL INFORMATION

V-

D- OCTOBER 27, 1994, approximately 0030 hours

S-

On Tuesday, December 6, 1994, at approximately 2238 hours, Sergeant Hamilton and I interviewed Deputy Carol Howard, [redacted], in the Captain's office of Men's Central Jail. Deputy Howard was assigned to the 4000 floor control booth on the early morning shift of October 27, 1994, the date of the incident. This interview was tape recorded.

Deputy Howard related that the first she knew about anything being wrong was when Deputies [redacted] and [redacted], who were 5000 floor prowlers, ran by the 4000 control booth to module 4400, and entered that module. Moments later, 30 seconds, at most, Deputies Barrett, Broad, Kammer and a forth deputy, whose identity she could not recall, all from the 9000 floor, ran by on their way to module 4400. According to Deputy Howard the deputies from 9000 were in the module only moments when they came back out and told her that no further assistance was needed.

Deputy Howard later learned, from Deputy Sloan, that the other Control Booth Officers found out about the incident because one of the prowlers from 5000 called just as he was

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about to call her for help.

Deputy Howard said that she then notified, via radio, Deputies [redacted] and Christolon, the 4000 floor prowlers, who were in the Officers Dining Room. Deputies [redacted] and Christolon responded to the module with Senior Jackson. Deputy Howard also notified Sergeant Mosley, who also responded to module 4400.

SERGEANT RONALD L. BELL, [redacted]
INTERNAL CRIMINAL INVESTIGATIONS BUREAU
PROFESSIONAL STANDARDS AND TRAINING DIVISION

Gerald Barnes LT.
2-9-95

COUNTY OF LOS ANGELES - SHERIFF'S DEPARTMENT

SUPPLEMENTARY REPORT

DATE FEBRUARY 1, 1995 **FILE NO** 494-00023-2300-444

C- SUSPICIOUS CIRCUMSTANCES/ POSSIBLE ASSAULT UNDER THE COLOR OF AUTHORITY-149 P.C.

Action Taken ACTIVE/ ADDITIONAL INFORMATION

V-

D- OCTOBER 27, 1994, approximately 0030 hours

S-

On Tuesday, December 6, 1994, at approximately 2317 hours, Sergeant Hamilton and I interviewed Deputy [redacted], in the Captain's Office of Men's Central Jail. Deputy [redacted] was assigned as a prowler on the 4000 floor during the early morning shift of October 27, 1994, the date of the incident. This interview was tape recorded.

Deputy [redacted] related that he was in the Officer's Dining Room with Deputy Christolon and Senior Jackson when they were notified by Deputy Howard, via radio, at approximately 0030, that a force incident had occurred in module 4400. The three responded, together, to the module and upon entering the module he noted an inmate, handcuffed and hobbled, lying on the sallyport floor near the bravo and denver row gates. The inmate was bleeding from a head wound and was ranting and raving about being beaten by Blood gang members. According to Deputy [redacted] the inmate's appearance and speech were that of a mentally disturbed person. The inmate said several times that the deputies "saved his life".

Deputy [redacted] said Deputy Kluth was all red and flustered

and his neck had red marks around it. Deputies [redacted] and [redacted] were standing in the sallyport area and Deputy Sloan was in the module control booth. Sergeant Mosley arrived in module 4400 moments after their arrival.

Deputy [redacted] said that the Nursing Staff arrived with the gurney shortly after the Sergeant. He escorted the inmate and the nursing staff to the clinic, where he video taped Sergeant Duncan's interview of the inmate. Deputy [redacted] said that during his contact with the inmate, he (inmate) rambled, ranted and raved continuously.

The next day, in the locker room, while getting ready to go on duty, Deputy [redacted] told him ([redacted]) that the inmate had been a "total wacko".

SERGEANT RONALD L. BELL, [redacted]
INTERNAL CRIMINAL INVESTIGATIONS BUREAU
PROFESSIONAL STANDARDS AND TRAINING DIVISION

Gerald Barnes Lt.
2-9-95

COUNTY OF LOS ANGELES - SHERIFF'S DEPARTMENT

SUPPLEMENTARY REPORT

DATE FEBRUARY 1, 1995 **FILE NO** 494-00023-2300-444

C- SUSPICIOUS CIRCUMSTANCES/ POSSIBLE ASSAULT UNDER THE COLOR OF AUTHORITY-149 P.C.

Action Taken ACTIVE/ ADDITIONAL INFORMATION

V-

D- OCTOBER 27, 1994, approximately 0030 hours

S-

On Monday, December 19, 1994, at approximately 2317 hours, Sergeant Hamilton interviewed Deputy Robert Christolon [redacted], at Men's Central Jail. Deputy Christolon was assigned as a prowler on the 4000 floor during the early morning shift of October 27, 1994, the date of the incident. This interview was tape recorded.

Deputy Christolon related that he was in the Officer's Dining Room with Deputy [redacted] and Senior Jackson when they were notified by Deputy Howard, at approximately 0030 hours, that a force incident had occurred in module 4400. The three responded, together, to the module and upon entering the module he noted an inmate, handcuffed and hobbled, lying on the sallyport floor near the bravo and denver row gates. The inmate was bleeding from a head wound. Deputies Kluth, [redacted] and [redacted] were standing in the sallyport area and Deputy Sloan was in the module control booth. Sergeant Mosley arrived in module 4400 moments after their arrival.

Deputy Christolon said that the Nursing Staff had already been notified and there was nothing else to do but await

their arrival. While doing so he noticed a male white inmate with light hair and a slight build in the bravo row shower area.

SERGEANT RONALD L. BELL, [redacted]
INTERNAL CRIMINAL INVESTIGATIONS BUREAU
PROFESSIONAL STANDARDS AND TRAINING DIVISION

Gerald Barnes Lt.
2-9-95

COUNTY OF LOS ANGELES - SHERIFF'S DEPARTMENT

SUPPLEMENTARY REPORT

DATE FEBRUARY 8, 1995 **FILE NO** 494-00023-2300-444

C- SUSPICIOUS CIRCUMSTANCES/ POSSIBLE ASSAULT UNDER THE COLOR OF AUTHORITY-149 P.C.

Action Taken ACTIVE/ ADDITIONAL INFORMATION

V-

D- OCTOBER 27, 1994, approximately 0030 hours

S-

On Thursday, January 5, 1994, at approximately 2238 hours, Sergeant Hamilton and I interviewed Sergeant Vann Mosley, at Men's Central Jail. Sergeant Mosley was assigned as the 4000 floor supervisor for the early morning shift of October 27, 1994. The interview was tape recorded.

Sergeant Mosley told us that he was in his office, on the 4000 floor, when he was notified, by Deputy Howard, that a force incident had occurred in module 4400. He responded to the module and upon entering he observed a black inmate, hobbled and lying on his right side in a fairly large pool of blood. The inmate was calm and lying in the sallyport area, two to three feet from the bravo-denver row bars. He remembers four deputies, Sloan, Kluth, [redacted], and [redacted], as being present in the module when he arrived. He recalls the Deputies being out of breath, as if they had just been involved in some type of physical activity. He observed reddening and scratches around Deputy Kluth's neck.

Sergeant Mosley went on to say that moments after his arrival Senior Jackson arrived with two deputies. He recalls talking

COUNTY OF LOS ANGELES - SHERIFF'S DEPARTMENT

SUPPLEMENTARY REPORT

Date: January 7, 1995

File No: 494-00023-2300-444

C- Suspicious Circumstances, Possible Assault Under the Color of Authority, 149 PC

Action Taken: Active/ Additional Information

V- N/A

I- [redacted] MB/A (Booking No. [redacted])

W- LEAL, Ines, Registered Nurse

D- October 27, 1994, at approximately 0030 hrs.

L- Men's Central Jail, Module 4400

S- N/A

On December 20, 1994, I interviewed Nurse Ines Leal [redacted], at Men's Central Jail (MCJ), regarding her examination and treatment of Inmate [redacted] Nurse Leal was assigned to MCJ clinic on the date in question (10/27/94). The interview was tape recorded.

Nurse Leal said that on October 27, 1994, at approximately 0045 hrs., she went to module 4400 regarding a "mandown" call. Upon her arrival, she saw Inmate [redacted] laying in the sallyport area with his hands and feet handcuffed and hobbled, respectively. He also was bleeding and laying in a pool of blood (approximately 150 cc). The nurse attempted to ascertain where the inmate was injured and how he obtained the injuries, but, initially, he was uncooperative. Eventually, the inmate told Nurse Leal that he had been stabbed and kicked by four (4) "guys" who mistook him for a rival gang member. They thought he was a Crip. He added that the deputies had rescued him from the attackers. The inmate was placed on a gurney and escorted to the clinic for an examination. The nurse only examined the areas where there were obvious injuries and complaint of pain.

Nurse Leal noted the inmate had suffered a lacerated left eyebrow and lower lip, swollen and slightly bloody nose, and superficial abrasions to his forehead, nose, and left ankle.

The nurse cleaned the inmate's wounds and had Dr. Peck (on-call physician) examine the lacerated eyebrow (Refer to attachment for additional information). The inmate was subsequently sent to USC Medical Center Jail Ward, at approximately 0125 hrs., for additional medical treatment.

Note: Nurse Leal said Inmate [redacted] never once complained or displayed any sign of discomfort to his groin or testicle region.

Sergeant Eric K. Hamilton, Emp. [redacted]
Internal Criminal Investigations Bureau
Professional Standards and Training Division

Approved By: Gerald Barnes Lt. **Date:** 1-31-95

LOS ELES COUNTY SHERIFF'S DEPART
MEDICAL SERVICES
DATA BASE

DIAGRAMATIC RECORD

[redacted]

COUNTY OF L ANGELES SHERIFF'S DEPARTME JAIL HOSPITAL

PROGRESS RECORD

Format – Problem title (Do not abbreviate) S–Subjective O–Objective A–Assessment P–Plans.
(All notes must have signature and title of person making entry.) Continue on reverse side.

Date and Time	Prob. No.		Signature
[redacted]			

COUNTY OF LOS ANGELES - SHERIFF'S DEPARTMENT

SUPPLEMENTARY REPORT

Date: January 6, 1995 **File No:** 494-00023-2300-444

C- Suspicious Circumstances, Possible Assault Under the Color of Authority, 149 PC

Action Taken: Active/ Additional Information

V- N/A

I- [redacted] MB/A (Booking No. [redacted])

W- Dr. Sander Peck, MD, Ph. [redacted] (MCJ)

D- October 27, 1994, at approximately 0030 hrs.

L- Men's Central Jail, Module 4400

S- N/A

On December 19, 1994, at approximately 1045 hrs., I interviewed Dr. Sander Peck at Sybil Brand Institute. Dr. Peck was the on-call physician, at Men's Central Jail, who examined Inmate [redacted] after he had been involved in an altercation with deputy personnel. The interview was tape recorded.

Dr. Peck essentially said he had no recollection of Inmate [redacted] nor any facts surrounding his particular injury(s). I provided the doctor with a copy of his medical evaluation report and he discovered that he had examined [redacted] for a lacerated left eyebrow and other superficial facial injuries. The record also indicated [redacted] injuries were sustained during an unknown type of altercation. The doctor subsequently ordered [redacted] sent to Los Angeles County-USC Medical Center (LCMC) for additional medical treatment. Dr. Peck felt he was unqualified to properly treat [redacted] lacerated eye. He specializes in Internal Medicine.

Sergeant Eric K. Hamilton, Emp. [redacted]
Internal Criminal Investigations Bureau
Professional Standards and Training Division

Approved By: Gerald Brunetti **Date:** 1-19-95

COUNTY OF LOS ANGELES - SHERIFF'S DEPARTMENT

SUPPLEMENTARY REPORT

Date: January 16, 1995 **File No:** 494-00023-2300-444

C- Suspicious Circumstances, Possible Assault Under the Color of Authority, 149 PC

Action Taken: Active/ Additional Information

V- N/A

I- [redacted], MB/A, Booking No. [redacted]

W- ESCOBAR, Lillie, Registered Nurse

D- October 27, 1994, at approximately 0030 hrs.

L- Men's Central Jail, Module 4400

S- N/A

On January 13, 1995, at approximately 1551 hrs., I interviewed Nurse Lillie Escobar [redacted], at USC Medical Center-Jail Ward, regarding her examination of [redacted] Inmate [redacted] had been involved in an altercation with deputy personnel assigned to Men's Central Jail and was transferred to the Jail Ward for additional medical treatment. The interview was tape recorded.

Nurse Escobar said that on October 27, 1994, at approximately 0150 hrs., she conducted a preliminary examination of Inmate [redacted] head and face injuries. She noted [redacted] had sustained a lacerated left eyebrow and lower lip, and several facial abrasions. There were no other head or face injuries noted. In addition, the nurse noted the inmate had complained of pain in his groin and testicle areas. He was subsequently treated by Dr. William Conrad and Dr. Steven Halus.

During the examination, the inmate told Nurse Escobar that he had received his injuries during a fight with other inmates. The inmates had mistaken him for a rival gang member and beat him. They kicked and punched him numerous times. Later, while [redacted] was in the Emergency Room, Nurse Escobar overheard him tell another inmate/patient a different version of who attacked him. He stated that he had been beatened by the "cops" and was going to sue them.

Note: Nurse Escobar purposely omitted [redacted] allegations of police abuse from her report (attached), because she was more concerned with documenting his injuries than his accusations. She said it's common for inmates to claim they were physically abused by law enforcement officers.

CONTENTS
A. ETZEL
NOTED

Sergeant Eric K. Hamilton, Emp. [redacted]
Internal Criminal Investigations [redacted]
Professional Standards and Training Division

Approved By: [signature] Lt. **Date:** 1-31-95

COUNTY OF LOS ANGELES

DEPARTMENT OF HEALTH SERVICES

LO[redacted]IGELES COUNTY - USC MEDICAL CE[redacted]ER

[redacted]

CHART COPY

[redacted]

Perso [redacted]

Address of Person Accompanying Patient	City	State

PATIENT INFORMATION

ADDRESS OF PATIENT	CITY	STATE	ZIP CODE	PHONE

[redacted]

[redacted]

GENERAL CONSENT

MEDICAL CONSENT The undersigned patient and/or responsible relative or person hereby consent to, authorize and request the Department of Health Services of Los Angeles County its physicians, surgeons, dentists and its medical personnel to administer and perform any and all medical examinations and treatments, dental examinations and treatments, diagnostic procedures, vaccinations, and immunizations against disease which may now or during the course of the patient's care as either an inpatient, out-patient or home care patient, be deemed advisable or necessary

The undersigned agree that said Department and Staff have the right to take clinical photographs They also consent to, and authorize transfer of the patient to any institution in the Department of Health Services or to a rest home or sanitarium or to the patient's home, when such transfer is deemed advisable by the medical staff of the admitting institution

The undersigned further consent to, and authorize, demonstration and/or observation of patient during administration of medical treatment or surgical procedure, by physicians, dentists, medical students, dental students, student nurses, and any other proper student or technician whose presence is deemed appropriate by the attending physician or dentist

The undersigned also agree to fully comply with the rules of the institution and specifically affirm that the Director of the Institution will be sole judge of such observance. They further agree that if the patient fails to comply with such rules, s/he may be forthwith discharged

RELEASE OF INFORMATION: Upon inquiry, the institution may make available to the public certain basic information about the patient, including name, address, age, sex, general description of the reason for treatment (whether an injury, burn, poisoning, or other condition), general nature of the injury, burn, poisoning or other condition, and general condition If the patient or the patient's legal representative does not want such information to be released, s/he must make a written request for such information to be withheld. The patient or the patient's legal representative may obtain a separate form for this purpose upon request

The institution will obtain the patient's consent and his/her written authorization to release information, other than basic information, concerning the patient, except in those circumstances when the institution is permitted or required by law to release information.

The undersigned acknowledges that all medical records maintained at any Los Angeles County Department of Health Services facility may be made available to any other Los Angeles County Department of Health Services facility where the patient is treated

FINANCIAL AGREEMENT: The undersigned agrees, whether s/he signs as agent or as patient that in consideration of the services to be rendered to the patient s/he hereby individually obligates himself to pay the full costs thereof, in accord with applicable laws, ordinances, resolutions and orders of the Board of Supervisors of the County of Los Angeles Such payment shall include the cost of inpatient, outpatient, or home care services in the prevailing amount set by the Board of Supervisors of the County of Los Angeles, as well as fees for professional services in the prevailing amount set by the Hospital Medical Groups if billed separately

MEDI-CAL/MEDICARE: The undersigned certifies that information given by me in applying for benefits of the Medi-Cal or Medicare Programs is correct I authorize release of any information necessary to act on this request. I request payment of any benefits be made in my behalf and agree to pay any remaining charges for which I am legally responsible

ASSIGNMENT OF INSURANCE BENEFITS: The undersigned hereby assigns to the County of Los Angeles Department of Health Services and to Medical Group associated with the County Hospital rendering service, and authorizes payment directly to them, all insurance benefits for hospital services and/or professional fees otherwise payable to or on behalf of the patient, but not to exceed the regular rates and fees for services rendered to the patient.

PERSONAL VALUABLES: The undersigned understands and agrees that the institution maintains a safe for the safekeeping of money and valuables and the institution shall not be liable for the loss or damage of any money, jewelry, glasses, dentures, documents, fur garments or other articles of unusual value unless placed therein, and shall not be liable for loss or damage to any other personal property, unless deposited with the institution for safekeeping

THE UNDERSIGNED CERTIFIES THAT S/HE HAS READ THE FOREGOING, RECEIVING A COPY THEREOF, AND IS THE PATIENT, OR DULY AUTHORIZED BY OR ON BEHALF OF THE PATIENT TO EXECUTE THE ABOVE AND ACCEPT ITS TERMS.

MINOR CONSENT COMPLETE: Emancipated (CC 60-70) ☐ Self-sufficient (CC 34.6) ☐ Pregnant (treatment/prevention) (CC 34 5) ☐ Active Duty Armed Forces (CC 25.7, 60-70) ☐ Reportable CD (CC 34.7) ☐ Care for Rape (CC 34.8) ☐ Care for Sexual Assault (CC 34.9) ☐ Care for Alcohol / Drug Abuse (CC 34.10) ☐

[redacted]

COUNTY OF LOS ANGELES - SHERIFF'S DEPARTMENT

SUPPLEMENTARY REPORT

Date: February 10, 1995 | File No: 494-00023-2300-444

C- Suspicious Circumstances, Possible Assault Under the Color of Authority, 149 PC

Action Taken: Active/ Additional Information

V- N/A

I- [redacted], MB/A, Booking No. [redacted]

W- Dr. William Conrad, MD, USC-Medical Center Jail Ward

D- October 27, 1994, at approximately 0030 hrs.

L- Men's Central Jail, Module 4400

S- N/A

On January 12, 1995, at approximately 1100 hrs., I interviewed Dr. William Conrad, at his Santa Monica residence, regarding his examination of and conversation with Inmate [redacted] Dr. Conrad (first year resident) was assigned to USC-Medical Center's Jail Ward on October 27, 1994. The interview was tape recorded.

Dr. Conrad said that on October 27, 1994, at approximately 0230 hrs., he examined Inmate [redacted] injuries. During the examination Inmate [redacted] informed the doctor that he had been "jumped and kicked in the balls" by other county jail inmates. Inmate [redacted] explained that his father ([redacted]) was an organized crime figure and was wanted by others for not paying off a debt (owed money). The aggressor inmates saw Inmate [redacted] mistook him for his father, and commenced to beat him. The inmates reportedly laid Inmate [redacted] on his stomach, held him down, and repeatedly kicked and punched him.

Sometime after the examination, Inmate [redacted] asked Dr. Conrad to arrange to have his wristband changed to reflect "[redacted]" He did not want to be mistaken for his father again. A deputy, assigned to the jail ward, subsequently added "[redacted]" to the inmate's wristband.

Dr. Conrad examination revealed that Inmate [redacted] had suffered a lacerated left eyebrow, facial abrasions, and swollen nose and left testicle. The inmate had no other visible signs of trauma or complaints of pain.

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Dr. Conrad treated the inmate's facial injuries and ordered an ultrasound of his testicle to determine the extent of damage. The ultrasound revealed that the inmate had sustained a testicular fracture to the left testicle. Dr. Conrad conferred with Dr. Steven Halus (Jail Ward staff-third year resident) and Dr. Matthew Dunn (Urology Department) regarding the next course of action. The doctors determined that the inmate's injury required surgery. Dr. Dunn subsequently conducted the surgery and removed a non-viable left testicle.

It should be noted that Dr. Conrad felt the inmate's testicular fracture was a new injury.

ATTACHMENTS:

- Dr. William Conrad's Reports
- Dr. Matthew Dunn's Report
- Miscellaneous Medical Reports

Sergeant Eric K. Hamilton, Emp. [redacted]
Internal Criminal Investigations Bureau
Professional Standards and Training Division

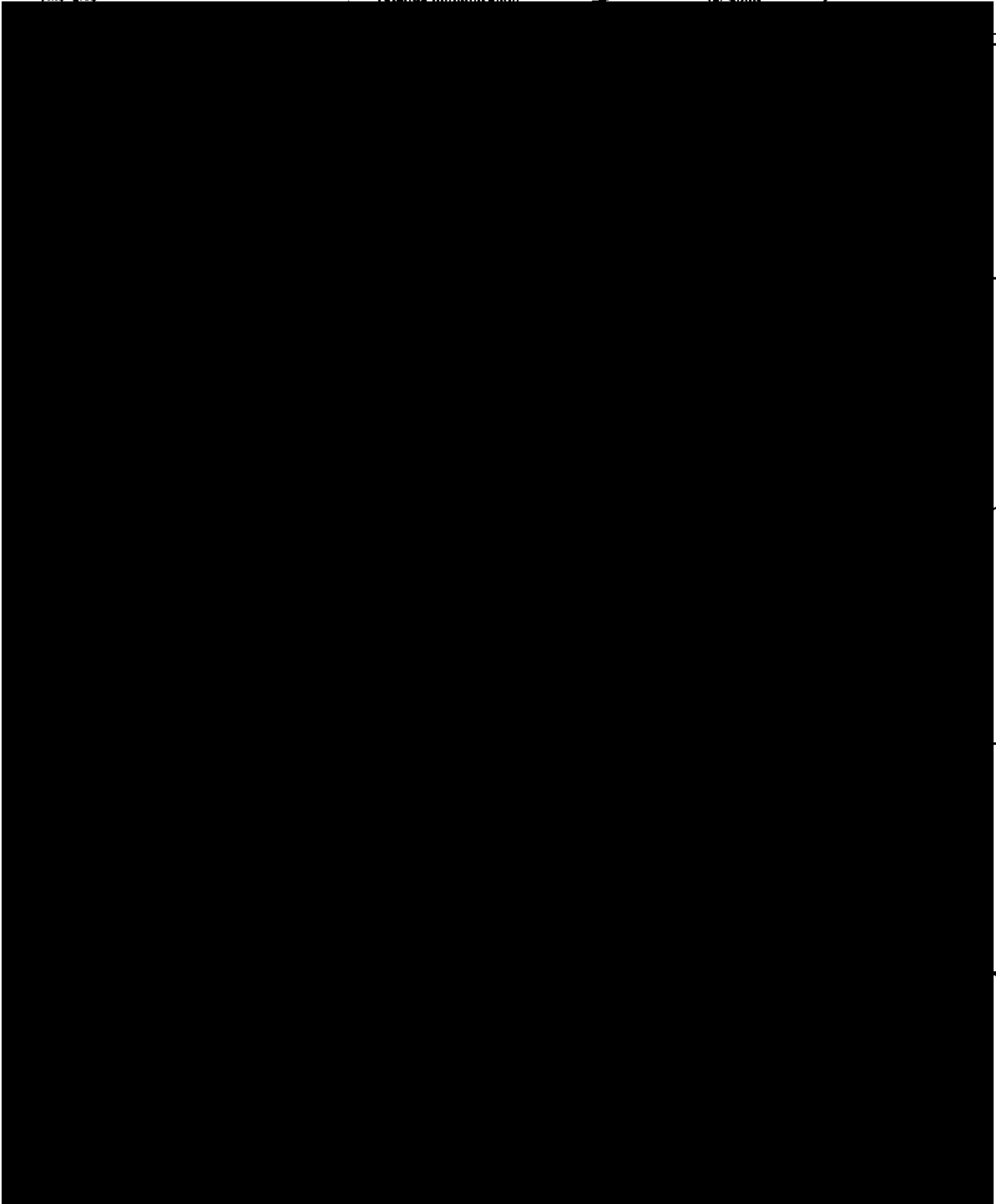
Approved By: Gerald Barnes Lt. **Date:** 2-15-95

10/27/94 494-00023-2300-444

Allergies

Tetanus Immunization

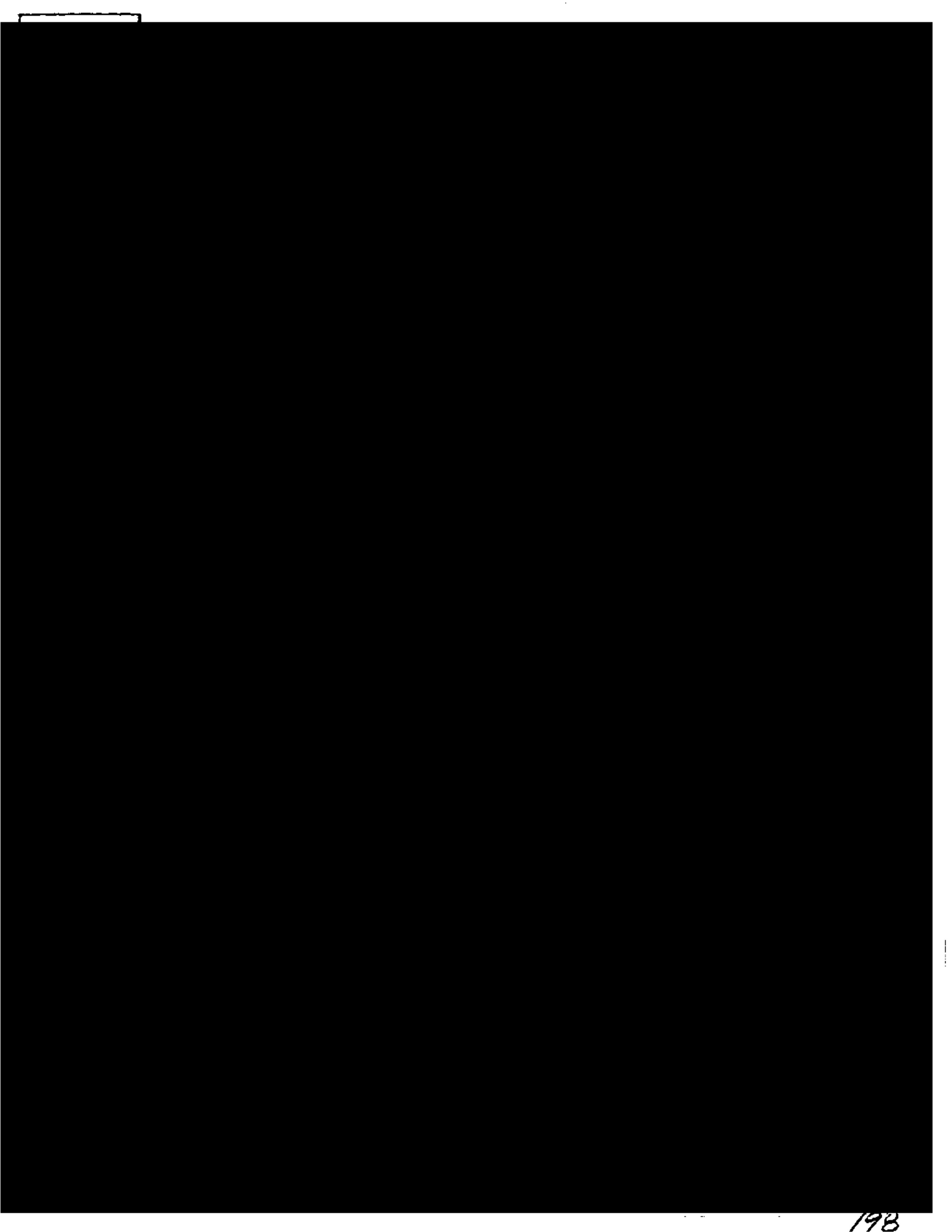
[redacted]



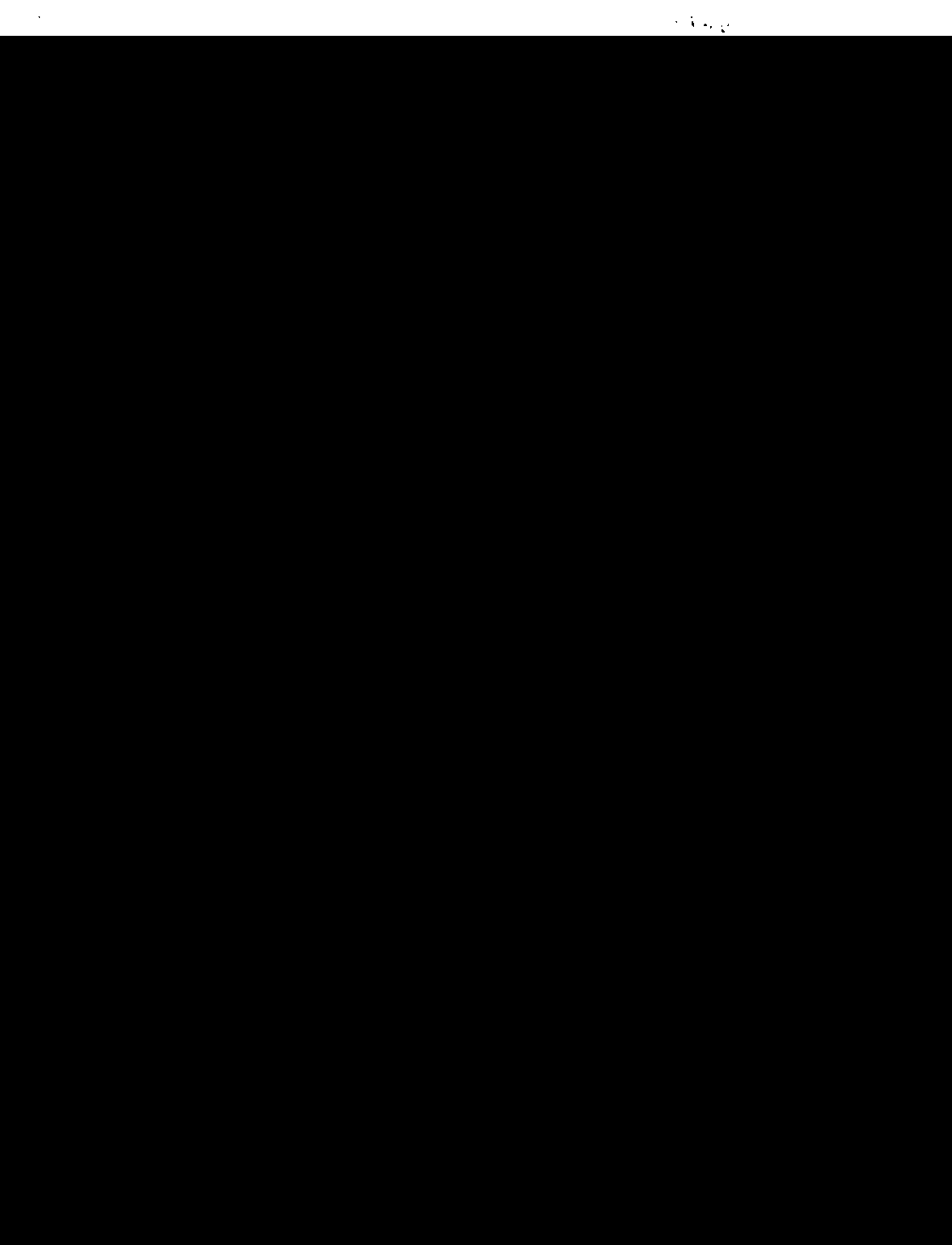
MEDICAL RECORDS

[redacted]

[redacted]



[redacted]



[redacted]

PELVIC:

[redacted]

PHYSICAL EXAMINATION (continued)

[redacted]

PHYSICAL EXAMINATION

[redacted]

[redacted]

SYSTEM REVIEW — Check (✓) appropriate boxes. Use This Space for Continuation of Present Illness and/or to Describe

[redacted]

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LOS ANGELES COUNTY + USC MEDICAL CENTER

PATIENT'S MEDICAL HISTORY

[redacted]

TO BE COMPLETED BY THE PHYSICIAN)

CHEST X-RAY

DATE TAK[redacted]

ANY TBC[redacted]

[redacted]

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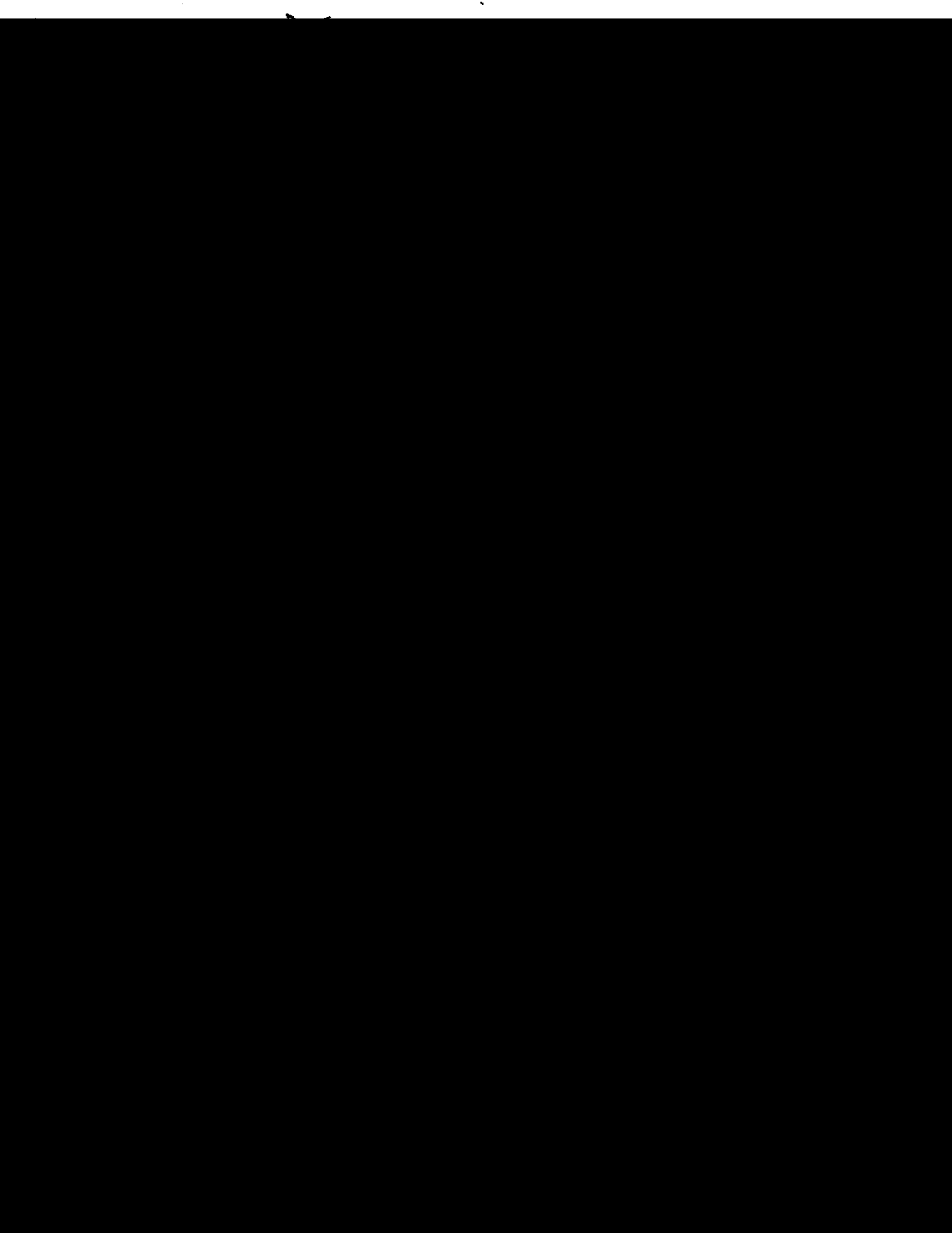
[redacted]

COUNTY OF LOS ANGELES - SHERIFF'S DEPARTMENT

SUPPLEMENTARY REPORT

Date: January 7, 1995 **File No:** 494-00023-2300-444

C- Suspicious Circumstances, Possible Assault Under the Color of Authority, 149 PC

Action Taken: Active/ Additional Information

V- N/A

I- [redacted] MB/A (Booking No. [redacted])

W- Dr. Steven Halus, MD, (3rd Year Resident), Huntington Memorial Hospital, Ph. (818) 397-5000

D- October 27, 1994, at approximately 0030 hrs.

S- N/A

On December 22, 1994, at approximately 1618 hrs., Sergeant Ronald Bell and I interviewed Dr. Steven Halus at Huntington Memorial Hospital regarding the examination of Inmate [redacted] The interview was tape recorded.

On October 27, 1994, Inmate [redacted] was involved in an altercation with deputy personnel at Men's Central Jail (MCJ) and subsequently sent to LCMC-Jail Ward, where he was examined by Dr. Steven Halus and Dr. William Conrad (Intern).

The doctor said the inmate had suffered a lacerated left eyebrow and complained of pain in the groin region. Upon closer examination, the doctor discovered the inmate's left testicle was swollen and tender to the touch. [redacted] told the doctor that he had been involved in an altercation and was kicked in the testicles. The doctor could not remember whether or not the inmate stated who had attacked him.

Due to the obvious trauma to the inmate's testicle, Dr. Halus consulted with Dr. Matthew Dunn (Urologist) regarding the next course of action. They decided to conduct an ultrasound to determine the extent of damage. The ultrasound revealed the inmate had suffered a left testicular fracture. Dr. Dunn operated on [redacted] and removed a non-viable testicle. There were no other noted injuries; particularly, to the testicular region or surrounding areas (buttock, legs, thighs, etc.).

Dr. Halus felt [redacted] testicular fracture was consistent with a relatively new injury. He could not provide an exact time frame. We asked the doctor whether or not he saw or noted any trauma that indicated the inmate had been kicked 6 to 12 times in the groin or struck 20 to 25 times in the upper torso and head region. The doctor said he did not see nor note any additional injuries.

Note: I provided Dr. Halus with a copy of his medical examination notes and he used them, throughout the interview, to recall the facts surrounding the examination of Inmate [redacted]

CONTENTS
A. ETZEL
NOTED

SERGEANT ERIC K. HAMILTON, EMP. [redacted]
INTERNAL CRIMINAL INVESTIGATIONS BUREAU
PROFESSIONAL STANDARDS AND TRAINING BUREAU

APPROVED BY: [signature] **DATE:** 1/19/95

COUNTY OF LOS ANGELES - SHERIFF'S DEPARTMENT

SUPPLEMENTARY REPORT

DATE JANUARY 23, 1995 **FILE NO** 494-00023-2300-444

C- SUSPICIOUS CIRCUMSTANCES/ POSSIBLE ASSAULT UNDER THE COLOR OF AUTHORITY-149 P.C.

Action Taken ACTIVE/ ADDITIONAL INFORMATION

V-

D- OCTOBER 27, 1994, approximately 0030 hours

S-

On Monday, January 9, 1995, at approximately 1625 hours, Sergeant Hamilton and I interviewed Matthew Dunn, M.D. at University Hospital. Dr. Dunn is a Urologist in his third year residency. The interview was conducted in the hospital library and was tape recorded.

Dr. Dunn said he was called in to examine [redacted] during the early morning hours of October 27, 1994, due to the patient's swollen and tender left testicle. The patient told him that he had been beaten by "some type of officer", as Dr. Dunn remembers. He told him that he had been struck many times and kneed in the groin. Dr. Dunn noted the patient's facial injuries, which were consistent with his story.

Upon examination Dr. Dunn said he found the patient's left testicle to be swollen and "exquisitely tender". A local anesthetic was used in order to complete the examination. The physical examination revealed little but the ultrasound that the Doctor ordered confirmed a fracture that required surgery.

Dr. Dunn told us that during an examination he normally examines from the patient's upper abdomen down to the mid-thigh area. Except for the patient's fractured left testicle Dr. Dunn made no note of bruising or other injury to the patient, saying that he would have noted any injury that he observed. He related that skin discoloration would be harder to detect since the patient was black. He told us that there were no injuries to the upper thighs or perineum. I asked if it was possible that Mr. [redacted] had been kicked in the groin area 15 to 20 times as Mr. [redacted] related to Sergeant Hamiliton and me. Dr. Dunn said that anything is possible but he would find it unlikely.

During surgery Dr. Dunn said he noted that the testicle was "splayed" open, had dark blood around it and had little scar tissue forming, leading him to believe that the injury was less than 24 hours old. He said the injury could only be caused by a sharp high force blow. It could have been caused by a single blow by a foot or knee. Asked if the injury could have been caused by a punch or being stepped on, Dr. Dunn said it would be possible but not as probable.

I asked Dr. Dunn about the apparent lack of pain displayed by Mr. [redacted] during an interview, which was video taped, by the Centeral Jail Watch Commander. I told Dr. Dunn that Mr. [redacted] was handcuffed and hobbled, with his feet pulled up behind him. During the interview he was rolled from his stomach to his side approximately four times and displayed no apparent pain. There was no distortion of the face or interruption of his dialog with the Watch Commander. Dr. Dunn said he found that hard to believe. He said the pain would come with movement of the testicle and it may have been that the testicle was immobilized by something like tight underwear. Other than that he could not explain the lack of apparent pain.

SERGEANT RONALD L. BELL, [redacted]
INTERNAL CRIMINAL INVESTIGATIONS BUREAU
PROFESSIONAL STANDARDS AND TRAINING DIVISION

Gerald Barnes LT.
1-31-95

[redacted]

[redacted]

REPORT OF OPERATION

[redacted]

COUNTY OF LOS ANGELES — Los Angeles County + USC Medical Center — DEPARTMENT OF HEALTH SERVICES

CONSULTATION/PROGRESS NOTE - DEPARTMENT OF EMERGENCY MEDICINE

[redacted]

WHITE - Chart   YELLOW - Emergency Room/Consultant   PINK - Consulting Service   Printed on recycled [redacted]

SURGICAL PATHOLOGY REPORT

[redacted]

LAC + USC MEDICAL CENTER
1200 North State St., LA, CA 90033
(213) 226-7108/7109

RADIOLOGY IMAGING CONSULTATION REPORT

[redacted]

COUNTY OF LOS ANGELES - SHERIFF'S DEPARTMENT

SUPPLEMENTARY REPORT

Date: April 3, 1995

File No: 494-00023-2300-444

C- Suspicious Circumstances, Possible Assault Under the Color of Authority, 149 PC

Action Taken: Active/ Additional Information

V- N/A

I- [redacted] [redacted] MB/A, Booking No. [redacted]

D- October 27, 1994, at approximately 0030 hrs.

L- Men's Central Jail, Module 4400

S- N/A

On November 23, 1994, Internal Criminal Investigations Bureau received a request from Internal Affairs Bureau to initiate a criminal investigation into allegations of excessive force by sworn employees assigned to Men's Central Jail. The below indicated deputy personnel were identified as participants of the altercation and subsequently [redacted] [redacted] [redacted] pending the outcome of this investigation:

1. Deputy David Kluth, Emp. [redacted]
2. Deputy [redacted] Emp. [redacted]
3. Deputy [redacted] Emp. [redacted]
4. Deputy Gary Sloan, Emp. [redacted]

I attempted to interview each deputy, but they invoked their constitutional rights.

Sergeant Eric K. Hamilton, Emp. [redacted]
Internal Criminal Investigations Bureau
Professional Standards and Training Division

Approved By: Gerald Barnett **Date:** 4/3/95

RECORDS & STATISTICS BUREAU'S USE ONLY

COUNTY OF LOS ANGELES
SHERIFF'S DEPARTMENT
COMPLAINT REPO[redacted]CT94 PAGE 1 OF 5

ACTION	ACTIVE (✓) INACTIVE ( )	PENDING ( )	INDEX INFO Yes ( ) No (✓)	No of Adult Arrests Ø	No of Subject Detentions Ø	URN (File No) 094-03[redacted] - 5100-058

CLASSIFICATION: BATTERY ON A PEACE OFFICER, 243(C) P.C.

CLASSIFICATION:

If Domestic Violence, Weapon Used ( ) YES ( ) NO — N/A

DATE TIME DAY OF OCCURRENCE: 27 OCTOBER 1994, 0030, THURSDAY
PRINT DEPUTY REQUESTED: NO (✓) YES ( ) LOC ( ) STA ( ) VEH ( )
VIA SECTY: —— TIME: ——

LOCATION OF OCCURRENCE: MENS CENTRAL JAIL, 441 BAUCHET ST. L.A. CA 90012
TYPE OF LOCATION: JAIL FACILITY
TRACT:

CODE: V—VICTIM, W—WITNESS, I—INFORMANT, R—REPORTING PARTY, P—PARTY. LIST ONE WITNESS (IF NAMED) AND THE INFORMANT ON THIS PAGE.

CODE	No OF	LAST NAME	FIRST	MIDDLE	SEX	RACE	DOB
V	1 of 1	KLUTH	DAVID	ALLEN	M	W	ADULT

RESIDENCE ADDRESS: L.A. COUNTY DEPUTY SHERIFF — CITY: — ZIP: — RES PHONE (AREA CODE): ——
BUSINESS ADDRESS: 441 BAUCHET STREET — CITY: LOS ANGELES — ZIP: 90012 — BUS PHONE (AREA CODE): (213) 9744908 ✓

CODE	No OF	LAST NAME	FIRST	MIDDLE	SEX	RACE	DOB

RESIDENCE ADDRESS: — CITY: — ZIP: — RES PHONE (AREA CODE):
BUSINESS ADDRESS: — CITY: — ZIP: — BUS PHONE (AREA CODE):

CODE	No OF	LAST NAME	FIRST	MIDDLE	SEX	RACE	DOB

RESIDENCE ADDRESS: — CITY: — ZIP: — RES PHONE (AREA CODE):
BUSINESS ADDRESS: — CITY: — ZIP: — BUS PHONE (AREA CODE):

CODE: S—SUSPECT, SJ—SUBJECT, M—PATIENT, S/V—SUSPECT/VICTIM, SJ/V—SUBJECT/VICTIM. CIRCLE CODE IF SUPP. PAGES USED FOR: V W S SJ M S/V SJ/V

CODE	No OF	LAST NAME	FIRST	MIDDLE	DRIVER'S LICENSE (STATE & No)
S	1 of 1	[redacted]			N/P

[redacted] — ZIP: — RES PHONE (AREA CODE): [redacted]

BUSINESS ADDRESS: UNEMPLOYED L.A. COUNTY INMATE — CITY: — ZIP: — BUS PHONE (AREA CODE): N/A

SEX	RACE	HAIR	EYES	HEIGHT	WEIGHT	DOB	AGE	WHERE DETAINED OR CITE No
M	B	BLK	BRO	510	160	[redacted]	40	MCJ

OBSERVABLE PHYSICAL ODDITIES: — AKA NICKNAME: — BOOKING No: [redacted]
CLOTHING WORN: L.A. COUNTY BLUE SHIRT AND BLUE PANTS — MAIN:
CHARGE: — WEAPON USED: FISTS

CODE	No OF	LAST NAME	FIRST	MIDDLE	DRIVER'S LICENSE (STATE & No)

RESIDENCE ADDRESS: — CITY: — ZIP: — RES PHONE (AREA CODE):
BUSINESS ADDRESS: — CITY: — ZIP: — BUS PHONE (AREA CODE):

SEX	RACE	HAIR	EYES	HEIGHT	WEIGHT	DOB	AGE	WHERE DETAINED OR CITE No

OBSERVABLE PHYSICAL ODDITIES: — AKA NICKNAME: — BOOKING No:
CLOTHING WORN: — MAIN:
CHARGE: — WEAPON USED:

VEHICLE USED IN CRIME YES ( ) NO (✓) UNKNOWN ( ) STORED ( ) IMPOUNDED ( ) — YR: — MAKE: — BODY TYPE: — COLOR: —
LICENSE (STATE & No): — VIN /FRAME No:
REGISTERED OWNER:
IDENTIFYING CHARACTERISTICS:
CHP 180 SUBMITTED YES ( ) NO ( ) — GARAGE NAME & PHONE:
VICTIM DESIROUS OF PROSECUTION YES (✓) NO ( ) — VICTIM INSURED FOR LOSS YES ( ) NO ( ) — EAP No
SUSPECT/SUBJECT RELEASE APPROVED BY — TIME — ARREST REVIEW SUBMITTED YES ( ) NO ( )

BY DEPUTY: KLUTH, DAVID A — BADGE No: [redacted]
DEPUTY: — BADGE No:
STATION: MCJ — UNIT/CAR No: 4400 — SHIFT: EM
APPROVED: V. M[signature] — BADGE No: [redacted] — TIME: 0330 Hrs
ASSIGNMENT: J.I.U. 5010 [redacted]
SPECIAL REQUEST DISTRIBUTION:
TT&I/C BY — DATE — TIME — SECTY [signature]

76C300F-SH-R-49 (Rev. 1/86) PS 1/86

USE FOR PROPERTY / NARRATIVE AS NEEDED

DATE	TIME REC'D	OBS (✓) DET ( ) CALL ( )	URN
27 OCT 94	0030		094 - 03357 - 5100 - 058

INPUT/CHECKED NCIC CII ETC YES ( ) NO (✓) EVIDENCE (CODE-EV) HELD YES ( ) NO (✓) MARKED TAGGED SEALED & PLACED IN STATION EVIDENCE LOCKER INSIDE ( ) OUTSIDE ( ) SAFE ( ) REFRIG ( ) BY ——— LEDGER PAGE No ———

IF BURGLARY: FORCE USED YES ( ) NO (✓) POINT OF ENTRY-DOOR ( ) WINDOW ( ) ROOF ( ) OTHER

PROPERTY: (TOTAL VALUE) RECOVERED $ 0 STOLEN $ 0 DAMAGED $ 0

PROPERTY CODE: S—stolen R—recovered L—lost F—found E—embezzled D—damaged (Use All Applicable Codes. For Example, If Property Is Both Stolen & Recovered, Code Is S/R)

PROPERTY RELEASED TO N/A

CODE	ITEM No	QUAN	DESCRIPTION INCLUDE KIND OF ARTICLE. TRADE NAME. IDENTIFYING NUMBERS. PHYSICAL DESCRIPTION. MATERIAL. COLOR. CONDITION. AGE AND PRESENT MARKET VALUE	SERIAL No	VALUE $

WHILE WORKING MODULE 4400, I OPENED CELL 'B-4' TO LET AN INMATE ENTER THE CELL.

WHEN I OPENED THE CELL, AN INMATE, LATER IDENTIFIED AS SUSP. [redacted], EXITED THE CELL.

I TOLD HIM TO GO BACK INSIDE HIS CELL, OVER THE PUBLIC ADDRESS SYSTEM, TO WHICH HE DID NOT COMPLY. AFTER SEVERAL ATEMPTS OF ORDERING HIM BACK INSIDE HIS CELL, I CLOSED HIS CELL, LOCKING HIM ON 'B' ROW.

SCREENING FACTORS

YES	NO		
✓		1.	SUSPECT IN CUSTODY
✓		2.	SUSPECT NAMED/KNOWN
	✓	3.	UNIQUE SUSPECT IDENTIFIERS
	✓	4.	VEHICLE IN CUSTODY
	✓	5.	UNIQUE VEHICLE IDENTIFIERS
✓		6.	WRITER/REVIEWER DISCRETION
✓		7.	GENERAL SUSPECT DESCRIPTION
	✓	8.	GENERAL VEHICLE DESCRIPTION
	✓	9.	UNIQUE M.O. OR PATTERN
	✓	10.	SIGNIFICANT PHYSICAL EVIDENCE
	✓	11.	TRACEABLE STOLEN PROPERTY
✓		12.	MULTIPLE WITNESSES

PART I STATISTICAL INFORMATION

ADDITIONAL CRIMES 1) ——— 2) ——— NUMBER OF VICTIMS ———

TYPE OF PROPERTY	STOLEN	RECOVERED	TYPE OF PROPERTY	STOLEN	RECOVERED
CLOTHING/FURS	$	$	JEWELRY	$	$
CONSUMABLE GOODS	$	$	LIVESTOCK	$	$
CURRENCY/NOTES	$	$	LOCAL STOLEN VEHICLES	$	$
FIREARMS	$	$	MISCELLANEOUS	$	$
HOUSEHOLD GOODS	$	$	OFFICE EQUIPMENT	$	$
			TV/RADIO/STEREO	$	$

WEAPONS CODE
( ) ARTICLES THROWN
( ) CAUSTIC CHEMICALS
( ) CLUB/BLUNT INSTRUMENT
( ) DRUGS/NOXIOUS GAS
( ) FIRE/EXPLOSIVES
(✓) HANDS/FEET/FIST/ETC.
( ) KNIFE/CUTTING INSTRUMENT
( ) POISON
( ) REVOLVER, PISTOL
( ) RIFLE
( ) SHOTGUN
( ) STRANGULATION
( ) VEHICLE
( ) UNKNOWN OTHER

REPORT CONTINUATION NARRATIVE | URN 094-03357-5100-058

AFTER LOCKING HIM ON 'B' ROW, I EXITED THE CONTROL BOOTH AND CALLED HIM OFF 'B' ROW TO THE AREA IN FRONT OF THE CONTROL BOOTH.

THEN, FOR MY SAFETY, I ORDERED SUSP WILLIAMS TO FACE THE WALL WHILE I TALKED TO HIM. SUSP. [redacted] REFUSED TO FACE THE WALL.

I THEN GRABBED HIS RIGHT SHOULDER TO TURN HIM AWAY FROM ME. AS I TRIED TO TURN HIM TOWARDS THE WALL, SUSP [redacted] LUNGED AT ME GRABING ME AROUND MY NECK WITH HIS RIGHT ARM.

WITH HIS RIGHT ARM AROUND MY NECK, HE BEGAN CHOKING ME. AS HE WAS CHOKING ME, HE STARTED SWINGING HIS LEFT FIST ATTEMPTING TO HIT ME THE FACE AND CHEST AREA.

I ATTEMPTED TO GET HIS ARM FROM AROUND MY NECK AS I WAS BLOCKING SWINGS FROM HIS LEFT FIST.

REPORT CONTINUATION . NARRATIVE | URN 094-03357-5100-058

AFTER STUGGLING WITH SUSP [redacted]. I MOMENTARILLY FREED MYSELF FROM HIS GRASP. AS I WAS BACKING AWAY FROM HIM, HE JUMPED AT ME AND AGAIN GOT HIS RIGHT ARM AROUND MY NECK AND STARTED CHOKING ME AGAIN.

AT THIS TIME I TOOK SUSP [redacted] TO THE FLOOR.

AFTER TAKING HIM TO THE FLOOR, I WAS STILL FIGHTING TO RELEASE HIS ARM FROM MY NECK.

AT THIS TIME, DEPUTY SLOAN [redacted], DEPUTY [redacted], AND DEPUTY [redacted], ARRIVED IN THE MODULE.

AT THIS TIME, WITH THE HELP OF THE RESPONDING DEPUTYS, WE WERE ABLE TO FREE HIS HOLD ON ME AND RESTRAIN HIM.

SUSP [redacted] WAS THEN TAKEN TO THE CLINIC WHERE HE WAS TREATED BY NURSE LEAL [redacted].

REPORT CONTINUATION —NARRATIVE | URN 094-0357-5100-058

SUSP [redacted] IS INCARCERATED ON A CHARGE OF 245(A)(1) PC, WITH A NEXT COURT DATE OF 10-28-94.

COUNTY OF LOS ANGELES - SHERIFF'S DEPARTMENT - SUPPLEMENTARY REPORT 1 OF 2

DATE 10-27-94 0030 HRS FILE NO. 094-03357-5100-058

C. 243 : PC ASSAULT ON PEACE OFFICER Action Taken

V. DEPUTY KLUTH, DAVID A. [redacted]

D. —

S. [redacted]

THE PURPOSE OF THIS SUPPLEMENTAL REPORT IS TO PROVIDE INFORMATION PERTAINING TO THE FORCE USED ON INMATE [redacted] BY DEPUTY SLOAN [redacted]

ON THE INDICATED DATE AND TIME DEPUTY KLUTH [redacted] WAS INVOLVED IN A PHYSICAL ALTERCATION WITH SUSP. [redacted] I ASSISTED DEPUTY KLUTH IN GAINING CONTROL OF SUSP. [redacted] BY PLACING MY THUMB UNDERNEATH SUSP. [redacted] CHIN AND APPLYING PRESSURE.

THE CONTROL HOLD HAD NO EFFECT ON SUSP. [redacted]. WITH THE ASSISTANCE OF DEPUTY [redacted] I GRABBED HIS RIGHT HAND AND USED A CONTROL HOLD TO BRING HIS RIGHT ARM IN BACK OF HIM AND

76R288M—Sh-R-313— PS 10-82

REPORT CONTINUATION – NARRATIVE | URN 094-03357-5100-058

HANDCUFF HIM.

USING DEPUTY KLUTH'S RIP HOBBLE RESTRAINT I WRAPPED BOTH FEET AND SECURED THE HOBBLE TO THE HANDCUFFS.

NO FURTHER FORCE WAS USED.

REPORT CONTINUATION _ NARRATIVE | URN 094-03357-5100-058

THE PURPOSE OF THIS SUPPLEMENTAL REPORT, IS TO PROVIDE INFORMATION PERTAINING TO THE FORCE USED ON I/M [redacted], BY DEPUTY [redacted].

I RESPONDED TO MODULE 4400 REGARDING A DEPUTY INVOLVED FIGHT.

I ENTERED 4400 AND OBSERVED SUSPECT [redacted] STANDING DIRECTLY BEHIND DEP. KLUTH WITH HIS RIGHT ARM AROUND DEP. KLUTHS' NECK IN A CHOKEHOLD. AS I APPROACHED BOTH SUSPECT [redacted] AND DEPUTY KLUTH FELL TO THE FLOOR.

I IMMEDIATELY GRABBED SUSPECT [redacted] RIGHT ARM AND ATTEMPTED TO GAIN CONTROL OF IT. SUSPECT [redacted] LOCKED HIS ARM OUT AND WOULD NOT ALLOW ME TO GAIN CONTROL OF IT. I THEN STRUCK SUSPECT [redacted], SEVERAL TIMES WITH MY RIGHT FIST, IN HIS RIGHT SIDE AND RIGHT SHOULDER, IN AN ATTEMPT TO GAIN CONTROL OF HIS RIGHT ARM. SUSPECT [redacted] CONTINUED TO STRUGGLE VIOLENTLY AND IGNORED MY COMMANDS TO RELEASE HIS ARM.

I THEN ATTEMPTED TO APPLY A KNEE THRUST TO SUSPECT [redacted] RIGHT SIDE. SUSPECT [redacted]

REPORT CONTINUATION — NARRATIVE | URN 094-03357-5100-058

ATTEMPTED TO ROLL TO HIS SIDE, AND I FELL ACROSS HIS UPPER TORSO. I THEN GRABBED AHOLD OF SUSPECT [redacted] RIGHT ARM AND ONCE AGAIN ATTEMPTED TO GAIN CONTROL OF HIS ARM. DEP. SLOAN THEN GRABBED SUSPECT [redacted] RIGHT ARM AND WITH HIS ASSISTANCE, WE WERE ABLE TO GAIN CONTROL OF THE ARM AND PLACE IT IN THE SMALL OF THE SUSPECTS BACK.

DEPUTIES SLOAN AND KLUTH THEN HANDCUFFED SUSPECT [redacted]. DEP. SLOAN THEN APPLIED A RIP STOP HOBBLE TO SUSPECT [redacted] LEGS. THE HOBBLE WAS THEN ATTACHED TO HIS HANDCUFFS WITH NO FURTHER INCIDENT.

[redacted]

MC378 MH#7 PM SHIFT

REPORT CONTINUATION . NARRATIVE | URN 094-03357-5100-058

THE PURPOSE OF THIS SUPPLEMENTAL REPORT, IS TO PROVIDE INFORMATION PERTAINING TO THE FORCE USED ON I/M [redacted] BY DEPUTY [redacted]

WHILE WORKING AS 56-59 PROWL I RESPONDED TO MODULE 4400 TO ASSIST DEP. KLUTH, [redacted], WHO WAS IN A PHYSICAL ALTERCATION WITH AN INMATE.

I ENTERED MODULE 4400 SALLY PORT AND SAW SUSPECT [redacted] CHOKING DEP. KLUTH'S NECK WITH HIS RIGHT ARM. FEARING FOR DEP. KLUTH'S SAFETY, I APPROACHED BOTH SUSPECT [redacted] AND DEP. KLUTH AT WHICH TIME THEY FELL TO THE FLOOR.

I IMMEDIATELY PLACED MY LEFT LEG ON THE BACK OF SUSPECT [redacted] LEGS AND ASSISTED DEP. KLUTH AND PLACED HIS LEFT ARM IN THE SMALL OF HIS BACK.

AS SUSPECT [redacted] CONTINUED TO VIOLENTLY RESIST, I SAW [redacted] TRY TO BRING SUSPECT [redacted] RIGHT ARM BACK BEHIND HIS BACK, BUT HE WOULD NOT COMPLY. I YELLED 4 TO 5 TIMES FOR SUSPECT [redacted] PLACE HIS RIGHT ARM

REPORT CONTINUATION — NARRATIVE | URN 094-03357-5100-144

BEHIND HIS BACK BUT HE CONTINUED TO VIOLENTLY RESIST. I THEN STRUCK SUSPECT [redacted] 2 TO 3 TIMES IN THE BACK OF HIS RIGHT THIGH. HE CONTINUED TO VIOLENTLY STRUGGLE SO I STRUCK HIM 2 MORE TIMES.

I THEN SAW DEP. SLOAN, [redacted] ASSIST DEP. [redacted] AND PLACE HIS RIGHT ARM IN THE SMALL OF HIS BACK.

DEP. SLOAN AND KLUTH THEN PLACED SUSPECT [redacted] IN HANDCUFFS. DEP. SLOAN THEN PLACED THE RIP HOBBLE RESTRAINT AROUND SUSPECT [redacted] ANKLES AND ATTACHED IT TO HIS HANDCUFFS WITH NO FURTHER INCIDENT

DEP. [redacted]

[redacted]

MCJ 56-89 PROWL EMS